

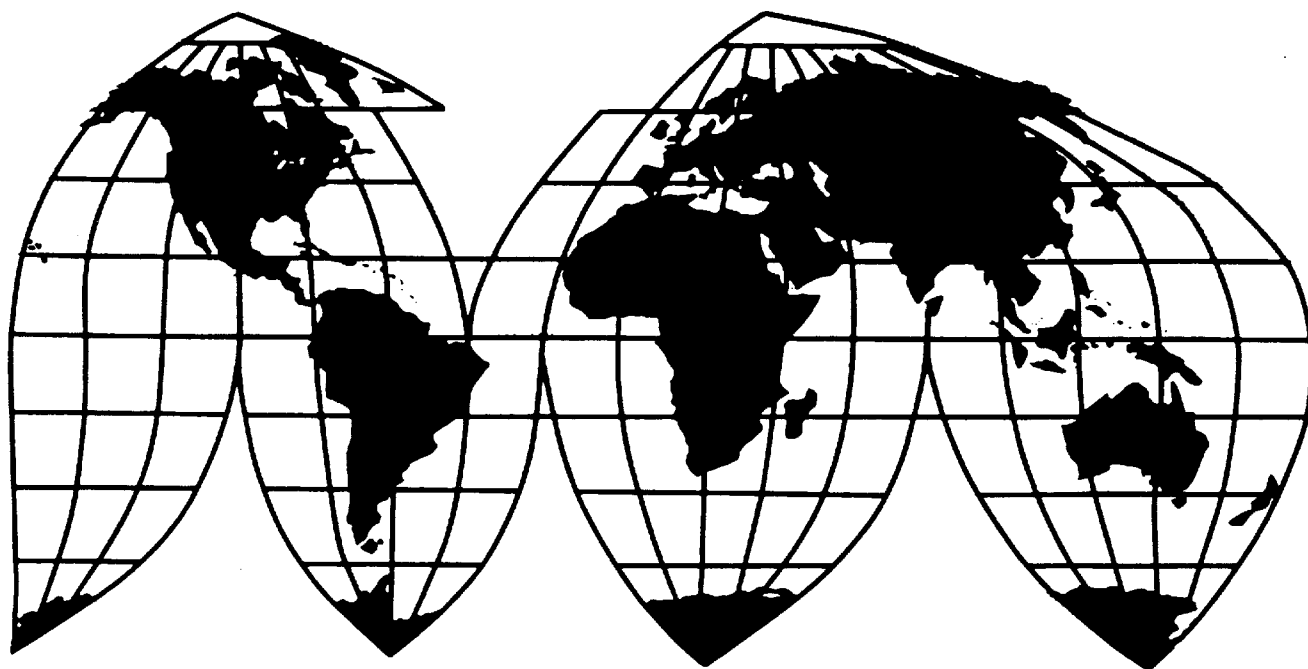
Superalloy Degassed Chromium From Japan

Investigation No.731-TA-1090 (Preliminary)

Publication 3768

April 2005

U.S. International Trade Commission



U.S. International Trade Commission

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CONTENTS

	<i>Page</i>
Determination	1
Views	3
 Part I: Introduction	 I-1
Background	I-1
Summary data	I-1
The subject product	I-2
Physical characteristics and uses	I-2
Manufacturing process	I-2
Domestic like product issues	I-4
 Part II: Conditions of competition in the U.S. market	 II-1
U.S. market segments/channels of distribution	II-1
Supply and demand considerations	II-1
U.S. supply	II-1
U.S. demand	II-2
Substitutability issues	II-3
Factors affecting purchasing decisions	II-4
Comparison of domestic products, subject imports, and nonsubject imports	II-4
 Part III: U.S. producer's production, shipments, and employment	 III-1
U.S. producer	III-1
 Part IV: U.S. imports, apparent consumption, and market shares	 IV-1
U.S. importers	IV-1
U.S. imports	IV-1
Apparent U.S. consumption and market shares	IV-1
Ratio of imports to U.S. production	IV-2
 Part V: Pricing and related information	 V-1
Factors affecting prices	V-1
Raw material costs	V-1
Transportation costs to the U.S. market	V-2
U.S. inland transportation costs	V-2
Exchange rates	V-2
Pricing practices	V-2
Sales terms and discounts	V-2
Price data	V-3
Price comparisons	V-4
Bid data	V-5
Comparisons by bidding process	V-6
Lost sales and lost revenues	V-6

CONTENTS

	<i>Page</i>
Part VI: Financial experience of Eramet	VI-1
Background	VI-1
Operations on SD chromium	VI-1
Capital expenditures and research and development expenses	VI-2
Assets and return on investment	VI-2
Capital and investment	VI-3
Part VII: Threat considerations	VII-1
The industry in Japan	VII-1
U.S. imports subsequent to December 31, 2004	VII-1
U.S. importer's inventories	VII-2
Dumping in third country markets	VII-2
Appendixes	
A. <i>Federal Register</i> notices	A-1
B. Conference witnesses	B-1
C. Summary data	C-1

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1090 (Preliminary)

SUPERALLOY DEGASSED CHROMIUM FROM JAPAN

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of superalloy degassed chromium, provided for in subheading 8112.21.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATION

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

BACKGROUND

On March 4, 2005, a petition was filed by Eramet Marietta Inc., Marietta, OH, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639, Belpre, OH, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of superalloy degassed chromium from Japan. Accordingly, effective March 4, 2005, the Commission instituted antidumping duty investigation No. 731-TA-1090 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 14, 2005 (70 FR 12499). The conference was held in Washington, DC, on March 25, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 18, 2005. The views of the Commission are contained in USITC Publication 3768 (April 2005), entitled *Superalloy Degassed Chromium from Japan: Investigation No. 731-TA-1090 (Preliminary)*.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

VIEWS OF THE COMMISSION

Based on the record in this preliminary phase investigation, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of superalloy degassed chromium from Japan that is allegedly sold in the United States at less than fair value (“LTFV”).

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.¹ In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”²

II. BACKGROUND

The petition in this investigation was filed by Eramet Marietta Inc. (“Eramet”), the lone domestic producer of superalloy degassed chromium, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639, which represents the workers at Eramet’s production facility (together, “petitioners”). The sole respondent is JFE Material Co., Ltd. (“JFE” or the “respondent”), which has not entered an appearance or provided any argument. However, JFE submitted a foreign producers’ questionnaire response and Mitsui & Co. (U.S.A.), Inc., the only known importer of subject merchandise,³ submitted an importers’ questionnaire response.

Superalloy degassed chromium is a type of high-purity chromium sold in pellet form that contains at least 99.5, but less than 99.95 percent, chromium and low levels of critical impurities, including nitrogen, sulfur, oxygen, aluminum, silicon, and iron.⁴ Superalloy degassed chromium is produced in a two-stage process, entailing first the production of chrome metal, and second the refining of the metal in a vacuum degassing furnace.⁵ Chrome metal is extracted from either high carbon ferrochromium or chrome oxide in one of three ways: Eramet utilizes an electrolytic process; subject Japanese producer JFE uses a silicothermic process; and non-subject French producer Delachaux uses an aluminothermic process.⁶ All three producers utilize a similar vacuum degassing process to refine chrome

¹ 19 U.S.C. § 1673b(a); see also *American Lamb Co. v. United States*, 785 F.2d 994, 1001-04 (Fed Cir. 1986); *Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F.Supp.2d 1353, 1368-69 (CIT 1999); *Aristech Chemical Corp. v. United States*, 20 CIT 353, 354-55 (1996).

² *American Lamb*, 785 F.2d at 1001; see also *Texas Crushed Stone Co. v. United States*, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

³ Confidential Staff Report (INV-CC-047) (“CR”) at I-2 and Public Staff Report (“PR”) at I-1.

⁴ CR at I-3, Table I-2; PR at I-2, Table I-2.

⁵ See CR at I-3 to I-5; PR at I-2 to I-4.

⁶ See CR at I-3, I-5 to I-6; PR at I-2, I-3 to I-4. Eramet reported that Japan Metals and Chemicals Co., Ltd. (“JMC”) also produces superalloy degassed chromium, ***. CR at I-5 n.11; PR at I-4 n.11.

metal into superalloy degassed chromium, through the removal of critical impurities.⁷ This low level of impurities is what makes superalloy degassed chromium necessary for the production of certain high end superalloys, which are cast into aerospace and power generation gas turbine parts subjected to great heat and physical stress.⁸ Chromium imparts heat- and stress-resistance to these components, and impurities in the metal would compromise their structural integrity.⁹

III. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”¹⁰ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹¹ In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”¹²

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.¹³ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹⁴ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.¹⁵ Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles that Commerce has

⁷ CR at I-4 to I-5; PR at I-4.

⁸ CR at I-3 n.6; PR at I-2 n.6.

⁹ CR at I-3, I-7; PR at I-2, I-5; see also Petition at 6-7.

¹⁰ 19 U.S.C. § 1677(4)(A).

¹¹ Id.

¹² 19 U.S.C. § 1677(10).

¹³ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See, e.g., Nippon, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l. Trade 1996).

¹⁴ See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

¹⁵ See, e.g., Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also, e.g., S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the domestic like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”)

identified.¹⁶ The Commission must base its domestic like product determination on the record in the investigation before it. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.¹⁷

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of the investigation as:

The product covered by this investigation is all forms, sizes, and grades of superalloy degassed chromium from Japan. Superalloy degassed chromium is a high-purity form of chrome metal that generally contains at least 99.5 percent, but less than 99.95 percent, chromium. Superalloy degassed chromium contains very low levels of certain gaseous elements and other impurities (typically no more than 0.005 percent nitrogen, 0.005 percent sulphur, 0.05 percent oxygen, 0.01 percent aluminum, 0.05 percent silicon, and 0.35 percent iron). Superalloy degassed chromium is generally sold in briquetted form, as “pellets” or “compacts,” which typically are 1½ inches x 1 inch x 1 inch or smaller in size and have a smooth surface. Superalloy degassed chromium is currently classifiable under subheading 8112.21.00 of the Harmonized Tariff Schedule of the United States (HTSUS). This investigation covers all chromium meeting the above specifications for superalloy degassed chromium regardless of tariff classification.¹⁸

Commerce expressly excluded from the scope electronics-grade chromium and vacuum melt grade chromium, stating as follows:

Certain higher-purity and lower-purity chromium products are excluded from the scope of this investigation. Specifically, the investigation does not cover electronics-grade chromium, which contains a higher percentage of chromium (typically not less than 99.95 percent), a much lower level of iron (less than 0.05 percent), and lower levels of other impurities than superalloy degassed chromium. The investigation also does not cover “vacuum melt grade” (VMG) chromium, which normally contains at least 99.4 percent chromium and contains a higher level of

¹⁶ See, e.g., Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find determination of six domestic like products in investigations where Commerce found five classes or kinds); Torrington, 747 F. Supp. at 748-52 (affirming Commission’s determination of six domestic like products in investigations where Commerce found five classes or kinds).

¹⁷ See Acciai Speciali Terni S.p.A. v. United States, 118 F.Supp.2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Asociacion Colombiana de Exportadores de Flores v. United States, 693 F.Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1998) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F.Supp. 1075, 1087-88 (Ct. Int’l. Trade 1988).

¹⁸ 70 Fed. Reg. 16220, 16221 (Mar. 30, 2005).

one or more impurities (nitrogen, sulfur, oxygen, aluminum and/or silicon) than specified above for superalloy degassed chromium.¹⁹

C. Domestic Like Product

Petitioners advocate one domestic like product coextensive with the scope of the investigation, as defined by Commerce.²⁰ They argue that it would be inappropriate as a matter of law for the Commission to expand the domestic like product definition beyond Commerce's scope to include either electronics-grade chromium or VMG chromium.²¹ Petitioners further argue that neither product is like superalloy degassed chromium under the Commission's six like product factors.²²

We consider whether the domestic like product should be expanded beyond Commerce's scope as defined by Commerce to encompass electronics-grade chromium and VMG chromium. For purposes of this preliminary determination, we find a single domestic like product comprised of superalloy degassed chromium.

1. Whether the Commission is precluded from expanding the domestic like product beyond Commerce's scope in this investigation

a. Petitioners' Argument

Petitioners argue that it would be inappropriate as a matter of law for the Commission to expand the domestic like product definition beyond the scope of the petition in this case. Petitioners claim that the Commission's "rationale" for finding a "continuum of products" constituting a single like product in previous cases, where the petition scope covered the range of products, "does not apply where the question is whether the like product should be expanded to include products outside the scope of the Department of Commerce investigation."²³ Petitioners also assert that because Eramet produces merchandise that is the "same product" as subject merchandise, the statute dictates that "the superalloy degassed chromium produced by Eramet is the domestic like product," and precludes the identification of "'a product which is . . . most similar in characteristics and uses with' the article subject to investigation" such as either electronics-grade chromium or VMG chromium.²⁴

b. Analysis

Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise alleged to be sold at less than fair value,²⁵ we may, where appropriate, include

¹⁹ Id.

²⁰ See Petition at 11-12; see also Petitioners' Postconference Brief at 5-7.

²¹ See Petitioners' Postconference Brief at 3-4.

²² See Petition at 12-23; see also Petitioners' Postconference Brief at 7-18.

²³ Petitioners' Postconference Brief at 3 (citing Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056 (Preliminary), USITC Pub. 3654 (Dec. 2003)).

²⁴ Id. at 4.

²⁵ See USEC, Inc. v. United States, Slip. Op. 01-1421 (Fed. Cir. April 25, 2005) at 9 ("The ITC may not modify the class or kind of imported merchandise examined by Commerce.").

domestic articles in the domestic like product that are in addition to those described in the scope.²⁶ Contrary to petitioners' characterization of the Commission's "continuum" analysis, the Commission has found that "{w}hen considering whether to expand the like product beyond the scope to encompass a broader continuum, the Commission is faced with determining where the continuum line ends."²⁷

That Eramet produces a product exactly the "same" as subject superalloy degassed chromium does not preclude the Commission from defining the like product to include products outside the scope, as petitioners contend.²⁸ We are not legally required to limit the domestic like product to the like product advocated by petitioners, co-extensive with the scope.²⁹ The issue is whether there is a continuum of chromium products that extends beyond the scope defined by Commerce, with no reasonable dividing line that could confine the domestic like product to merchandise coextensive with the scope. The Commission has found that "{a} lack of interchangeability between products at either end of a continuum is not inconsistent with a finding of a single domestic like product when the products are all part of a continuum."³⁰

We consider whether to define the domestic like product to include electronics-grade chromium or VMG chromium by comparing each product to superalloy degassed chromium under the six like product factors.³¹

2. Whether the domestic like product should be expanded to include electronics-grade chromium

a. Petitioners' Argument

Petitioners contend that the Commission should not expand the domestic like product to include electronics-grade chromium. Petitioners argue that the physical and cost differences between the two

²⁶ See, e.g., Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 and 731-TA-895-96 (Final), USITC Pub. 3467 (Nov. 2001) at 8 n.34.

²⁷ Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056 (Final), USITC Pub. 3734 (Nov. 2004) at 5; see also Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056 (Preliminary), USITC Pub. 3654 (Dec. 2003) at 10 n.59; Minivans from Japan, Inv. No. 731-TA-522 (Final), USITC Pub. 2529 (July 1992) at 6 (In contemplating "where the continuum line ends," the Commission found that "there is no clearer dividing line if the like product were defined to include minivans plus any other category of vehicles. If we broadened the like product to include, for example station wagons, it is not clear that a rational basis would exist for excluding passenger automobiles from the like product.").

²⁸ Petitioner's Postconference Brief at 4.

²⁹ Torrington Co. v. United States, 747 F.Supp. 744, 748-9 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); see also Hosiden Corp. V. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes of kinds defined by Commerce).

³⁰ See Outboard Engines from Japan, Inv. No. 731-TA-1069 (Preliminary), USITC Pub. 3673 (March 2004) at 8 n.40.

³¹ See Outboard Engines from Japan, USITC Pub. 3673 at 8 n.40; Aluminum Plate from South Africa, USITC Pub 3734 at 7; Ironing Tables and Certain Parts Thereof from China, Inv. No. 731-TA-1047 (Final), USITC Pub. 3711 (July 2004) at 6-7; Certain Wax/Resin Thermal Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 (Apr. 2004) at 8.

products dictate different end uses,³² channels of distribution,³³ customer and producer perceptions,³⁴ and preclude interchangeability.³⁵ Superalloy degassed chromium contains too little chromium and too much iron to be used in the same high-end electronics applications as electronics-grade chromium,³⁶ while electronics-grade chromium is too costly and in the wrong physical form to be interchangeable with superalloy degassed chromium.³⁷ Petitioners further note that the lone domestic producer of electronics-grade chromium, International Specialty Alloys (“ISA”) of New Castle, PA, produces no superalloy degassed chromium.³⁸

b. Analysis

The different physical characteristics and price of electronics-grade chromium result in different end uses, channels of distribution, and customer and producer perceptions, as compared to superalloy degassed chromium. Electronics-grade chromium has a higher chromium content (at least 99.95 percent) than superalloy degassed chromium (at least 99.5 percent but less than 99.95 percent), and a much lower level of iron and other impurities,³⁹ which make the material suitable for high end electronics applications that require extremely low levels of iron, such as the production of LCD displays.⁴⁰ Electronics-grade chromium is “impracticable” for use in the production of superalloys because the vast majority comes in powder form, while superalloy producers typically use chromium in briquette or pellet form, and electronics-grade chromium costs over four times as much.⁴¹ Superalloy degassed chromium cannot be used for the applications that require electronics-grade chromium.⁴² Thus, there is little to no interchangeability, and electronics-grade chromium is sold to electronics producers and their suppliers, whereas superalloy chromium is sold almost exclusively to superalloy producers.⁴³

Despite some theoretical overlap in production facilities, processes, and employees,⁴⁴ we do not find that electronics-grade chromium belongs on a continuum with superalloy degassed chromium, and do not expand the domestic like product beyond the scope of the investigation to include domestic electronics-grade chromium.

³² Petitioners’ Postconference Brief at 8.

³³ Id. at 9.

³⁴ Id. at 9.

³⁵ Id. at 6, 8.

³⁶ Id. at 8.

³⁷ Id. at 6, 8.

³⁸ Id. at 9. The staff report indicates that *** CR at I-9 n.24; PR at I-7 n.24.

³⁹ CR at I-8, Table I-; PR at I-6, Table I-2.

⁴⁰ CR at I-8; PR at I-6.

⁴¹ CR at I-9; PR at I-7 (electronics-grade chromium is priced at around \$34.00 per pound, whereas superalloy degassed chromium is priced at under \$8.00 per pound).

⁴² CR at I-9; PR at I-6.

⁴³ CR at I-10; PR at I-7.

⁴⁴ Both products are further processed from electrolytic chrome metal. ISA ***, CR at I-9 n.24, PR at I-7 n.24, and Eramet has used the same facilities and employees to produce electronics-grade chromium on a test basis. CR at I-9, PR at I-7.

3. Whether the domestic like product should be expanded to include VMG chromium

a. Petitioners' Argument

Petitioners argue that the Commission should not expand the domestic like product definition to include VMG chromium because the product is unlike superalloy degassed chromium under the six like product factors. Petitioners claim that VMG chromium is a lower-cost chromium product with a lower level of chromium, and a higher level of critical impurities,⁴⁵ as compared to superalloy degassed chromium, which relegates VMG chromium to the production of lower-end superalloys.⁴⁶ Petitioners assert that interchangeability between VMG chromium and superalloy degassed chromium is precluded by VMG chromium's relatively lower purity⁴⁷ and superalloy degassed chromium's relatively higher price.⁴⁸ Though acknowledging that severe cost pressures forced "a limited number of purchasers" to substitute VMG chromium for superalloy degassed chromium beginning in late 2001,⁴⁹ petitioners claim that the VMG substitution process was completed by 2003,⁵⁰ and represented "a one-time permanent loss" of demand for superalloy degassed chromium in low end applications.⁵¹ Petitioners contend that Eramet produces VMG chromium and superalloy degassed chromium utilizing significantly different production processes, albeit in the same facilities with the same employees;⁵² that VMG chromium is sold into a much larger market than superalloy degassed chromium, with more customers and a wider range of end uses;⁵³ and that producers and customers view VMG chromium and superalloy degassed chromium as distinct products based on their respective levels of chromium content and critical impurities.⁵⁴

b. Analysis

Physical characteristics and uses

VMG chromium contains substantially higher levels of critical impurities than superalloy degassed chromium,⁵⁵ which compromise the material's ability to resist heat and physical stress.⁵⁶ Accordingly, VMG chromium is used to produce superalloys wrought into less critical parts of aerospace and power generation gas turbines,⁵⁷ and petitioners estimate that about half is consumed in superalloys

⁴⁵ See Petitioners' Postconference Brief at 10-14.

⁴⁶ Id. at 13-14; see also transcript of March 25, 2005 conference (revised and corrected copy) ("Tr.") at 19 (Vorberger).

⁴⁷ Petitioners' Postconference Brief at 14; see also Tr. at 20 (Vorberger), 64 (Houser).

⁴⁸ Petitioners' Postconference Brief at 15.

⁴⁹ Id. at 15; see also Tr. at 31, 73 (Vorberger), 32 (Kramer), 44 (Houser).

⁵⁰ See Petitioners' Postconference Brief at Exh. 7.

⁵¹ See id. at 14, 29.

⁵² Id. at 17; see also Petitioners' Postconference Brief, Responses to Staff Questions at 3-4.

⁵³ Petitioners' Postconference Brief at 18.

⁵⁴ Id.; see also Tr. at 82 (Vorberger).

⁵⁵ CR at I-7, Table I-2; PR at I-5, Table I-2.

⁵⁶ CR at I-7; PR at I-5; see also Petition at 6-7.

⁵⁷ CR at I-7; PR at I-5.

destined for unrelated lower end applications.⁵⁸ Superalloy degassed chromium is used primarily in the production of superalloys cast into aerospace and power generation gas turbine parts subjected to great heat and physical stress.⁵⁹ Superalloy degassed chromium is sold in pellet or compact form, whereas VMG chromium is sold in “lumpy” form.⁶⁰

Interchangeability

Due to increased cost pressures from 2001 to 2002, some purchasers permanently substituted VMG chromium for superalloy degassed chromium in applications where higher levels of critical impurities were acceptable.⁶¹ Petitioners estimate that roughly *** of the decline in superalloy degassed chromium consumption between 2001 and 2003 resulted from purchaser substitution of VMG chromium, but opine that no further substitution occurred in 2004.⁶² Purchasers may use only superalloy degassed chromium in the production of superalloys cast into high end gas turbine parts, for which a low level of impurities is critical.⁶³

Common manufacturing facilities, production processes, and production employees

Petitioners acknowledge that Eramet produces superalloy degassed chromium and VMG chromium in the “same manufacturing plant . . . using some common workers,”⁶⁴ but with a modified production process.⁶⁵ The vast majority of Eramet’s VMG chromium is produced from ***⁶⁶ that is vacuum degassed *** as compared to the production of superalloy degassed chromium.⁶⁷ ***.⁶⁸

⁵⁸ See Petitioners’ Postconference Brief at 14; Tr. at 19 (Vorberger); see also CR at I-7; PR at I-5.

⁵⁹ CR at I-7; PR at I-5.

⁶⁰ Petitioners’ Postconference Brief at 12-13; Petition at 19.

⁶¹ Id.

⁶² See id. at Exh. 7.

⁶³ CR at I-3, 7; PR at I-2; see also Tr. at 20 (Vorberger), 64 (Houser).

⁶⁴ Petitioners’ Postconference Brief at 16; see also Tr. at 72 (Kramer), 73, 81 (Houser), and 81 (Vorberger).

⁶⁵ CR at I-8; PR at I-6; see also Petitioners’ Postconference Brief, Responses to Staff Questions at 3-4; see also Tr. at 36 (Houser).

⁶⁶ CR at I-8 n.18; PR at I-6 n.18; see also Petitioners’ Postconference Brief, Responses to Staff Questions, at 3-4.

⁶⁷ CR at I-8; PR at I-6; see also Petitioners’ Postconference Brief, Responses to Staff Questions, at 3-4; see also Tr. at 41 (Houser).

⁶⁸ See Petitioners’ Postconference Brief, Responses to Staff Questions at 4.

Channels of distribution

Both VMG chromium and superalloy degassed chromium are sold directly to superalloy producers.⁶⁹ VMG chromium is sold in greater quantities to many more customers with a broader array of end uses.⁷⁰ By contrast, 70 percent of superalloy degassed chromium is sold to three investment casters for use in superalloys cast into high end gas turbine parts.⁷¹

Customer and producer perceptions

Chromium products are not generally marketed under the names “VMG chromium” or “superalloy degassed chromium,” but according to trade names unique to each producer, and specifications unique to each customer.⁷² There are no industry-wide standard grades.⁷³ Eramet promotes its VMG chromium product on the same webpage as its superalloy degassed chromium products,⁷⁴ and both products are used in the “vacuum melting” of superalloys.⁷⁵

Certain customers perceived VMG chromium to be an acceptable substitute for superalloy degassed chromium in less critical applications over the 2001-2003 period.⁷⁶ According to petitioners, however, the process of substitution ended in 2004, and certain high end applications remain reserved for superalloy degassed chromium.⁷⁷

Price

Eramet and Delachaux have sold their superalloy degassed chromium at prices ranging from \$5.00 to \$7.00 per pound,⁷⁸ and JFE has sold superalloy degassed chromium at about \$*** per pound.⁷⁹ VMG chromium is sold at prices ranging from \$3.00 to \$4.00.⁸⁰

c. Conclusion

The record contains certain evidence of similarities between superalloy degassed chromium and VMG chromium. Customers choose between the two products based upon their chromium purity requirements, rather than standardized industry specifications. Both products are used in the production of superalloys for gas turbine parts, and approximately *** of the decline in superalloy degassed chromium demand between 2001 and 2003 was due to the substitution of VMG chromium in less critical

⁶⁹ CR at I-8; PR at I-6.

⁷⁰ Id.

⁷¹ CR at I-2, I-8; PR at I-2.

⁷² See Tr. at 10-11 (Houser), 82 (Vorberger).

⁷³ CR at I-6; PR at I-4.

⁷⁴ See Petition at Exh. 2.

⁷⁵ See id.; see also Tr. at 33-34 (Houser).

⁷⁶ CR at I-7; PR at I-5; see also Petitioners’ Postconference Brief, at Exh. 7.

⁷⁷ See Petitioners’ Postconference Brief at Exh. 7; Answers to Staff Questions at 5; Tr. at 20 (Vorberger), 64 (Houser).

⁷⁸ Petitioners’ Postconference Brief at 15.

⁷⁹ CR at I-7; PR at I-6.

⁸⁰ See Petition at 21; Petitioners’ Postconference Brief at 16; see also CR at I-7; PR at I-6.

applications.⁸¹ Both are sold directly to superalloy producers. VMG chromium is priced below superalloy degassed chromium, but not substantially below ***. Eramet produces VMG chromium and superalloy degassed chromium on the same equipment with the same employees.⁸²

Other factors distinguish VMG chromium from superalloy degassed chromium, however. VMG chromium and superalloy degassed chromium are physically distinguishable by their varying levels of chromium and critical impurities, and their differing physical forms.⁸³ Due to its greater level of critical impurities, VMG chromium cannot be used in superalloys for casting into high end gas turbine parts. VMG chromium is sold to a large number of customers in a variety of industries,⁸⁴ while 70 percent of superalloy degassed chromium is sold to three investment casters for the production of superalloys cast into aerospace and industrial gas turbine parts.⁸⁵ Petitioners claim that about half of VMG chromium is consumed in superalloys destined for lower end applications.⁸⁶ Eramet produces VMG chromium *** with *** vacuum degassing process.

The limited record in this preliminary investigation indicates that there are both similarities and differences between VMG chromium and superalloy degassed chromium. Based on this limited evidence, we do not define the domestic like product to include VMG chromium. In any final phase of the investigation, we intend to collect additional information as to whether to define the like product to include VMG chromium. For purposes of this preliminary investigation, we find a single like product comprised of superalloy degassed chromium.

D. Domestic Industry

The domestic industry is defined as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁸⁷ In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.⁸⁸

⁸¹ The “lumpy” form of VMG chromium does not appear to impede its use in the production of lower-end superalloys. In any final phase of this investigation, we will seek more specific information concerning the applications in which VMG chromium can be substituted for superalloy degassed chromium.

⁸² The petitioners’ assertion that imported VMG chromium is produced without vacuum degassing is immaterial, because the Commission considers the like product factors with respect to the like or “most similar” article that is *domestically* produced. See, e.g., Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, Inv. Nos. 731-TA-965, 971-72, 979, and 981 (Final), USITC Pub. 3536 (September 2002) at 10 n.30; Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Preliminary), USITC Pub. 3533 (August 2002) at 5.

⁸³ Petitioners also distinguish between superalloy degassed chromium products based on critical impurity levels. See Petition at 64 (requested pricing products distinguished by differing nitrogen and sulfur levels).

⁸⁴ See Petitioners’ Postconference Brief at 17-18.

⁸⁵ CR at I-2; PR at I-2; see also Petition at 9.

⁸⁶ See Petitioners’ Postconference Brief at 14; Tr. at 19 (Vorberger); see also CR at I-7; PR at I-5.

⁸⁷ 19 U.S.C. § 1677(4)(A).

⁸⁸ See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

Based on our finding that the domestic like product is superalloy degassed chromium, coextensive with the scope of the investigation, we find that the domestic industry consists of the sole domestic producer of superalloy degassed chromium, Eramet.⁸⁹

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS⁹⁰

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.⁹¹ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁹² The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁹³ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁹⁴ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁹⁵

For the reasons discussed below, we find that there is a reasonable indication that the domestic industry producing superalloy degassed chromium is materially injured by reason of subject imports from Japan.

A. Conditions of Competition

Several conditions of competition inform our analysis of whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports from Japan.

1. Demand Conditions

Domestic demand for superalloy degassed chromium is derived primarily from a small number of superalloy producers in the aerospace and power generation industries, and closely tracks jet engine and industrial gas turbine production.⁹⁶ As discussed in more detail below, U.S. apparent consumption of

⁸⁹ There are no known related parties in this investigation. CR and PR at IV-1.

⁹⁰ 19 U.S.C. § 1677(24)(A)(I)(I). In this investigation, subject imports accounted for more than three percent of the volume of superalloy degassed chromium imported into the United States from all sources in the most recent 12-month period for which data are available preceding the filing of the petition. CR and PR at Table IV-1. As such, we find that subject imports are not negligible under 19 U.S.C. § 1677(24).

⁹¹ 19 U.S.C. §§ 1671b(a) and 1673b(a).

⁹² 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also *Angus Chemical Co. v. United States*, 140 F.3d 1478 (Fed. Cir. 1998).

⁹³ 19 U.S.C. § 1677(7)(A).

⁹⁴ 19 U.S.C. § 1677(7)(C)(iii).

⁹⁵ Id.

⁹⁶ See CR at I-3, II-4; PR at I-2, II-3. Petitioners indicate that about 5 percent of demand depends on metal coatings, electronics, and other products (including electronics applications not requiring the low iron content of
(continued...)

superalloy degassed chromium declined *** percent between 2001 and 2002,⁹⁷ in the wake of the events of September 11, 2001 ("9/11") and the collapse of artificially high electricity prices,⁹⁸ and only began to recover in 2004.⁹⁹ Information on these and other demand trends, as outlined below, was largely provided by petitioners. We intend to collect additional information on demand conditions for superalloy degassed chromium in any final phase investigation.

a. Collapse of Aerospace Demand After 9/11

Approximately 70 percent of superalloy degassed chromium is consumed in the production of superalloys for casting into turbine blades for aircraft jet engines.¹⁰⁰ Petitioners report that consumption for this end use declined "precipitously" between 2001 and 2002 as commercial aircraft orders, and production, evaporated with reduced air travel and airline financial difficulties after 9/11.¹⁰¹ According to the petitioners, superalloy degassed chromium consumption for this end use began to recover in 2003, after investment casters realized that they had cut back orders too drastically in 2002, and further increases in demand are expected through 2006.¹⁰²

b. Collapse of Demand in the Power Generation Market, and the Prospect of Future Growth

Superalloy degassed chromium demand in the power generation market represented approximately 25 percent of domestic consumption over the period of investigation.¹⁰³ Petitioners assert that demand in this segment was considered stronger than normal through 2001, as high electricity prices caused overinvestment in electricity generation capacity.¹⁰⁴ Petitioners further assert that after the speculative bubble burst in 2001, electricity prices returned to normal, and excess electricity generation capacity curtailed demand for new powerplants, thereby softening demand for the gas turbine blades that incorporate superalloy degassed chromium.¹⁰⁵

Petitioners report that demand for superalloy degassed chromium from power generation equipment manufacturers recovered in 2004,¹⁰⁶ and may be poised for stronger growth in the imminent future due to recent developments in gas turbine technology. Turbine manufacturers have harnessed jet engine technology to design a new generation of high-efficiency gas turbines capable of operating at

⁹⁶ (...continued)

electronics-grade chromium). Petition at 34, 36. Demand for superalloy degassed chromium is relatively inelastic with respect to price, given the typically low cost share of end uses and the limited substitutability of other products for some applications. CR at II-3; PR at II-2.

⁹⁷ See CR and PR at Table IV-2. Petitioners requested that the Commission collect data from 2001 through 2004 to capture the impact of these demand trends on the superalloy degassed chromium industry. Petition at 32 n.54. For purposes of this preliminary determination, we have collected and analyzed data over the 2001-2004 period, but in any final phase investigation, we intend to revisit the issue of the length of the period of investigation.

⁹⁸ See CR at IV-2; PR at IV-1 to IV-2.

⁹⁹ CR at II-4; PR at II-3.

¹⁰⁰ CR at II-4; PR at II-3.

¹⁰¹ See Petitioners' Postconference Brief at 27-28.

¹⁰² See Petition at 35.

¹⁰³ CR at II-4; PR at II-3.

¹⁰⁴ See CR at IV-2; PR at IV-1 to IV-2; see also Petition at 35; Petitioners' Postconference Brief at 28.

¹⁰⁵ See CR at IV-2; PR at IV-1 to IV-2.

¹⁰⁶ Petition at 35.

higher temperatures, necessitating turbine blades cast from superalloys containing superalloy degassed chromium.¹⁰⁷ According to a witness testifying for Eramet at the conference, growing demand for high efficiency natural gas turbines could have a “big impact on the demand for superalloy degassed chromium in the future.”¹⁰⁸

c. The Substitution of VMG Chromium and Other Chromium Products for Superalloy Degassed Chromium

Protracted weakness in the commercial aircraft and power generation equipment markets caused a change in superalloy degassed chromium consumption patterns between 2001 and 2003. “Driven by severe cost pressures,”¹⁰⁹ according to petitioners, “some purchasers shifted consumption of superalloy degassed chromium to VMG chromium (or in some cases to even lower purity forms of chromium), where the high purity level of superalloy degassed chromium was determined not to be necessary.”¹¹⁰ These applications were ones in which superalloy producers had been “using a Cadillac for a Chevy application.”¹¹¹

Petitioners estimate that *** percent of the decline in U.S. superalloy degassed chromium consumption between 2001 and 2003 resulted from the substitution of VMG chromium in end uses formerly reserved for superalloy degassed chromium.¹¹² Petitioners submit that this substitution affected non-subject imports far more than domestic shipments,¹¹³ because “Eramet sold a relatively larger share to investment casters, whose tight specifications did not allow for substitution towards lower-grade materials.”

Petitioners claim that “[t]his shift in demand among the lower-end customers . . . only served to intensify the competition for the business of customers with more stringent specifications . . . and it is these customers that JFE . . . would target next.”¹¹⁴ We note, however, that Eramet has tried to meet this demand shift by producing its own VMG chromium product.¹¹⁵

¹⁰⁷ See Petition at 35-36; see also Tr. at 52-53 (Houser).

¹⁰⁸ Tr. at 53 (Houser).

¹⁰⁹ Id. at 31 (Vorberger).

¹¹⁰ Petition at 20; see also CR at I-7; PR at I-5.

¹¹¹ Tr. at 31 (Vorberger). For example, one of the petitioners’ lost sales and revenues allegations concerns a ***. Petition at 50-51. For 2003-2004, however, Praxair “revised its chromium specifications to accept lower grades of chromium” and “was no longer a customer for the subject merchandise.” Id. at 51.

¹¹² See Petitioners’ Postconference Brief, at Exh. 7.

¹¹³ See id. (Petitioners estimate that *** percent of lost superalloy degassed chromium shipments “attributable to {VMG} substitution” were lost by Delachaux.).

¹¹⁴ Petition at 51.

¹¹⁵ See id. at 22 (“In order to participate in the VMG chromium market to some degree, in 2003 Eramet began producing for commercial sale chromium meeting the specifications for that product using a modified vacuum degassing process”).

d. The Nature of Subject Import Competition

Petitioners indicate that 80 to 90 percent of superalloy degassed chromium purchases are made pursuant to contracts, with the balance purchased on the spot market.¹¹⁶ Contracts are traditionally one year in duration, though ***.¹¹⁷ It is a common practice for sales to be made on a consignment basis, where customers are billed only for material drawn from an inventory of superalloy degassed chromium maintained on their premises.¹¹⁸ Eramet requires customers to pay for any inventory that remains on consignment after ***.¹¹⁹ Mitsui reports that its merchandise was held in consignment for an average of *** days, *** Eramet,¹²⁰ although Eramet alleges that JFE permits customers to hold inventories indefinitely.¹²¹

Petitioners claim that JFE's entry into the U.S. market in 2001 has intensified price competition,¹²² given the small number of superalloy degassed chromium purchasers.¹²³ Petitioners contend that "{t}he relatively small size of the {superalloy degassed chromium} industry creates a situation in which competitive information is transmitted quickly," and "{t}he economic difficulties within the aerospace sector" pressured superalloy producers to cut costs by "reveal{ing} to competing suppliers the prices at which other suppliers are offering superalloy degassed chromium."¹²⁴ Petitioners claim that because purchasers view superalloy degassed chromium from qualified suppliers as interchangeable,¹²⁵ JFE's strategy of capturing new customers with low prices rippled quickly through the market, suppressing prices.¹²⁶ *** confirmed that price was a reason for their increased purchases of subject imports at the expense of the domestic like product.¹²⁷

Petitioners also argue that the prevalence of contract sales, coupled with the small number of superalloy degassed chromium customers, means that "changes in market share tend to happen in large blocks rather than over time."¹²⁸ Indeed, *** alone accounted for *** percent of Eramet's sales in ***

¹¹⁶ CR at V-2; PR at V-3 (***).

¹¹⁷ Id.

¹¹⁸ CR at V-4; PR at V-2.

¹¹⁹ CR at V-4; PR at V-3.

¹²⁰ Id.

¹²¹ See Petition at 40.

¹²² Petitioners indicated that price competition between Eramet and Delachaux had been limited prior to JFE's entry into the U.S. market. See Tr. at 38 (Vorberger) ("Delachaux and Eramet's pricing were very similar"); see also Petitioners' Postconference Brief at 5-6; Petition at 21.

¹²³ Petitioners report that there are fewer than 20 superalloy degassed chromium customers in total, with 70 percent of all purchases made by three investment casters. See Petitioners' Postconference Brief at 21; see also Petition at 36-37; CR at I-2, I-8, II-1; PR at I-2, I-6, II-1.

¹²⁴ Petition at 38; see also Petitioners' Postconference Brief at 22.

¹²⁵ Petitioners acknowledged at the conference that purchasers might find JFE's longer consignment period advantageous, Petition at 38; see also Petitioners' Postconference Brief at 22, but argued that this consideration was minor in comparison to price. Tr. at 57 (Vorberger) (price "far more important," with consignment terms only a "sweetener").

¹²⁶ Petitioners' Postconference Brief at 43.

¹²⁷ CR at II-5; PR at II-4. ***.

¹²⁸ Id. at 21.

2004.¹²⁹ This purchaser ***¹³⁰ although a witness for Eramet at the conference claimed that this purchaser's preference for the electrolytic process used by Eramet is "not a technical limitation" that would preclude the use of subject imports from Japan, produced using the silicothermic process.¹³¹

2. Supply Conditions

a. Increasing Raw Material Costs

Eramet utilizes an electrolytic process to refine raw ferrochromium into chromium,¹³² with raw materials constituting about *** percent of the cost of goods sold.¹³³ Eramet's ferrochromium costs increased *** percent between 2001 and 2004,¹³⁴ and its other production costs increased between *** and *** percent.¹³⁵ Petitioners claim that Eramet suffered a cost-price squeeze over the POI, as Eramet was unable to push through the price increases necessary to cover escalating costs.¹³⁶ The average unit value ("AUV") of Eramet's domestic shipments increased only *** percent over the period.¹³⁷

b. Non-subject Imports

The only other known supplier of superalloy degassed chromium to the U.S. market besides petitioner Eramet and respondent JFE is non-subject French producer Delachaux.¹³⁸ Non-subject import market share held steady at *** percent in 2001 and *** percent in 2002, declined to *** percent in 2003, and recovered somewhat to *** percent in 2004.¹³⁹

¹²⁹ *** Domestic Producers' Questionnaire Response at Question IV-C.

¹³⁰ See *** Domestic Producers' Questionnaire Response at Question IV-B-16.

¹³¹ Tr. at 77-78 (Vorberger); see also ***. We intend to gather additional information on these purchases in any final phase of the investigation.

¹³² JFE uses a silicothermic process to produce chrome metal from chromium oxide, silicon metal, and calcium oxide, rather than ferrochromium. CR at I-5; PR at I-4. In any final phase of the investigation, we intend to investigate whether lower raw material costs, or a lower cost production method, might have advantaged JFE in the U.S. market.

¹³³ CR at V-1; PR at V-1.

¹³⁴ See Petitioners' Postconference Brief at Exh. 5. *Metal Bulletin* reports that high-carbon ferrochromium prices increased around 94 percent between January 2001 and January 2005. CR at V-1, Figure V-1; see also Petition at 48 ("Since the first quarter of 2001, prices for high-carbon ferro-chrome as reported by Platt's Metals Week have risen by over 100 percent.").

¹³⁵ See Petitioners' Postconference Brief at Exh. 5; see also CR at V-9; PR at V-5.

¹³⁶ See Petition at 48; Petitioners' Postconference Brief at 43-44.

¹³⁷ CR and PR at Table IV-2.

¹³⁸ CR at I-5; PR at I-4.

¹³⁹ CR and PR at Table IV-2.

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”¹⁴⁰

The volume of U.S. shipments of subject imports increased from a relatively low starting point of *** pounds in 2001 to *** pounds in 2002.¹⁴¹ That volume increased further to *** pounds in 2003 and to *** pounds in 2004.¹⁴² Subject imports’ share of the U.S. market climbed from *** percent in 2001 to *** percent in 2002, *** percent in 2003, and finally to *** percent in 2004.¹⁴³

The increase in subject imports’ market share came partially at the expense of the share held by the domestic industry, particularly from 2003 to 2004. The market share held by the domestic industry fell from *** percent in 2001 to *** percent in 2002, and then increased to *** percent in 2003.¹⁴⁴ From 2003 to 2004, the domestic industry’s share fell to *** percent, displaced primarily by subject imports, and to a lesser degree by nonsubject imports.¹⁴⁵ Market share held by nonsubject imports rose *** from *** percent in 2001 to *** percent in 2002, before falling to *** percent in 2003, and then rising to *** percent in 2004.^{146 147}

We find for purposes of the preliminary phase of this investigation that subject import volume, and the increase in that volume, were significant during the period examined, both in absolute terms and relative to domestic production and consumption.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹⁴⁸

The record indicates that competition for sales of superalloy degassed chromium occurs primarily on the basis of price.¹⁴⁹ Most market participants responding to Commission questionnaires indicated either that domestic and subject superalloy degassed chromium are “always” used interchangeably, or that

¹⁴⁰ 19 U.S.C. § 1677(7)(C)(i).

¹⁴¹ CR and PR at Table C-1.

¹⁴² Id.

¹⁴³ CR and PR at Table IV-2.

¹⁴⁴ Id.

¹⁴⁵ Id.

¹⁴⁶ Id.

¹⁴⁷ The ratio of subject imports to domestic production rose from *** percent in 2001 to *** percent in 2002, and then to *** percent in 2003, before declining to *** percent in 2004. CR and PR at Table IV-3.

¹⁴⁸ 19 U.S.C. § 1677(7)(C)(ii).

¹⁴⁹ See supra Section IV.A.1.d.

the two products are “comparable” in terms of quality.^{150 151} Eramet indicated that once a superalloy degassed chromium supplier has qualified with its customers, competition among suppliers occurs primarily on the basis of price, and that purchasers may change suppliers based on relatively small differences in price.¹⁵² In explaining why they increased their purchases of subject imports of superalloy degassed chromium relative to the domestic product, *** purchasers cited differences in price alone, while *** stated that it did so based on differences in price, quality, and consignment terms.¹⁵³ The record indicates that of eleven contracts awarded based on a competitive bid process, six were awarded entirely to the lowest bidder, while the other five were awarded in part to the lowest bidder.¹⁵⁴

The Commission requested pricing data on the following four superalloy degassed chromium products: a standard or “regular” grade of superalloy degassed chromium (product 1), a low-nitrogen grade (product 2), a low-sulfur grade (product 3), and a low-nitrogen and low-sulfur grade (product 4).¹⁵⁵ While the Commission received pricing data for all four such products produced in the United States, with respect to subject imports, it received pricing data for product 1 only.¹⁵⁶ Subject superalloy degassed chromium was priced lower than the domestic product in eleven out of eleven possible quarterly price comparisons, with margins ranging from 11.0 percent to 27.7 percent.¹⁵⁷ Based on the foregoing, we find underselling by subject imports to be significant.

With respect to lost sales and lost revenue, the petitioners made *** lost sales allegations totaling \$*** million for *** pounds, and *** usable lost revenue allegations totaling \$*** for \$*** pounds.¹⁵⁸ While some of the purchasers disagreed with the allegations, *** confirmed that the domestic industry lost *** of substantial volume and value to subject imports from Japan.¹⁵⁹ Moreover, information submitted by purchasers in respect to bidding for eleven contracts worth \$*** million indicated that the lowest priced bid always acquired part or all of the award.¹⁶⁰

Prices for domestically produced superalloy degassed chromium generally increased over the period of investigation. From the first quarter of 2001 to the fourth quarter of 2004, prices for domestically produced products 1, 2 and 3 increased by *** percent, *** percent, and *** percent, respectively.¹⁶¹ Product 1 accounted for almost *** of the domestic industry’s domestic sales, while product 3 accounted for about *** of domestic sales and product 2 accounted for about *** percent of

¹⁵⁰ *** indicated that domestic and subject imported superalloy degassed chromium are “always” interchangeable, while *** responding purchasers indicated that the two products are “comparable” in quality. CR at II-6, PR at II-4. *** indicated that the domestic product is “inferior” to Japanese superalloy degassed chromium in quality. CR at II-6, PR at II-4.

¹⁵¹ As noted previously, the Commission received a report that purchaser ***. CR at II-6, PR at II-4.

¹⁵² CR at II-5, PR at II-4. See Tr. at 24 (Vorberger) (once a supplier is qualified, competition occurs primarily on the basis of price), 57 (Vorberger) (consignment terms have much less significance).

¹⁵³ CR at II-5, PR at II-4.

¹⁵⁴ CR at V-17, PR at V-6.

¹⁵⁵ CR at V-4 to V-5, PR at V-3 to V-4.

¹⁵⁶ ***.

¹⁵⁷ CR and PR at Table V-1.

¹⁵⁸ CR at V-17, PR at V-6.

¹⁵⁹ CR at Table V-4 and at V-19 to V-20 and PR at Table V-4 and at V-6 (*** due to competition with subject imports).

¹⁶⁰ CR at V-17 and PR at V-6 (lowest-priced bid receiving part or all of sale in 11 contracts worth \$*** million).

¹⁶¹ CR at V-5, PR at V-4.

domestic sales.¹⁶² As for domestically produced product 4, which accounted for less than *** percent of the domestic industry's domestic sales, prices fell by *** percent from the ***.¹⁶³ Given these general increases in prices, we do not find that subject imports depressed prices for the domestic product in the United States to a significant degree.

We do, however, find that subject imports of superalloy degassed chromium prevented increases in prices for the domestic product, which otherwise would have occurred, to a significant degree. During the period of investigation, the domestic industry experienced *** increases in the cost of production. The cost of the primary raw material input, high-carbon ferrochromium, approximately doubled from late 2002 to late 2004, and petitioners reported *** increases in the prices of sulfuric acid and ammonia as well.¹⁶⁴ On a per unit basis, the domestic industry reported *** increases in energy and labor costs, and other factory costs.¹⁶⁵ As a result, the domestic industry's unit cost of goods sold increased by *** percent from 2001 to 2004.¹⁶⁶ The domestic industry also experienced a ***-percent increase in unit selling, general, and administrative expenses ("SGA").¹⁶⁷

In contrast to these relative steep increases in the production costs and SGA of the domestic industry, increases in the price of domestic superalloy degassed chromium were more modest, as described above. While the domestic industry's average unit sales value increased by *** percent, that change was reportedly due in principal part to a change in product mix.¹⁶⁸ In any event, the increases in both prices for domestic superalloy degassed chromium and in AUVs are smaller in magnitude than the increase in the industry's costs of production and SGA. Indeed, as a share of its sales, the domestic industry's cost of goods sold increased from *** percent in 2001 to *** percent in 2002, declined *** percent in 2003, and then increased to *** percent in 2004.¹⁶⁹

The domestic industry reported that it was unable to raise prices to a greater extent due to competition with subject imports.¹⁷⁰ The record confirms that subject imports and domestic superalloy degassed chromium were comparable in quality, and competed primarily on the basis of price. It also indicates that subject imports consistently undersold the domestic like product by substantial margins, and that eleven of eleven competitively bid contracts were awarded entirely or partially to the lowest bidder. These facts support the domestic industry's contention of significant price effects.¹⁷¹

On the basis of the foregoing, we find that subject imports have suppressed price increases that otherwise would have occurred, to a significant degree.

¹⁶² Staff work table 1 (derived from the response of Eramet to the producer's questionnaire).

¹⁶³ CR at V-5, PR at V-5 (price decline), Staff work table 1 (share of sales attributable to product 4).

¹⁶⁴ CR and PR at Figure V-1 and Petitioners' Postconference Brief at Exhibit 5. In 2004, raw materials accounted for approximately *** percent of the cost of goods sold for the domestic production of superalloy degassed chromium. CR and PR at V-1.

¹⁶⁵ Petitioners' Postconference Brief at Exhibit 5, CR at VI-3, PR at VI-2.

¹⁶⁶ CR and PR at Table C-1.

¹⁶⁷ Id.

¹⁶⁸ While the domestic industry's average unit sales values increased from \$*** per pound in 2001 to \$*** per pound in 2004, the domestic industry indicated that this increase was due more to changes in product mix than increases in sales prices for individual products. CR and PR at Table C-1, Petitioners' Postconference Brief at Responses to Staff Questions at 8; see also Staff work table 1.

¹⁶⁹ CR and PR at Table C-1.

¹⁷⁰ Tr. at 49-50 (Vorberger, Button), Petitioners' Posthearing Brief at Responses to Staff Questions at 7. While Petitioners submitted ***. In any final phase of this investigation, the Commission will seek additional data pertaining to this transaction in particular.

¹⁷¹ We note that no contrary argument was received on this point. In any final phase of the investigation, we intend to gather additional information regarding price suppression and the effects of subject imports.

D. Impact of the Subject Imports¹⁷²

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”¹⁷³ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹⁷⁴

By most measures, the domestic industry’s condition worsened over the period examined. Production by the domestic industry fell by more than *** from *** million pounds in 2001 to *** million pounds in 2002, and further to *** million pounds in 2003, before rising to *** million pounds in 2004.¹⁷⁵ Capacity utilization followed a similar trend, falling from *** percent in 2001 to *** percent in 2003, and to *** percent in 2003, before rising to *** percent in 2004.¹⁷⁶ Domestic industry capacity was steady at *** million pounds in 2001 and 2002, before rising *** to *** million pounds in both 2003 and 2004.¹⁷⁷

While the domestic industry experienced some gains in production and capacity utilization in 2004, its U.S. shipments and sales volumes declined in that year, with the higher production flowing into inventories. The domestic industry’s U.S. shipments fell from *** million pounds in 2001 to *** million pounds in 2002 and 2003, and fell further in 2004 to *** million pounds.¹⁷⁸ The value of U.S. shipments followed a similar pattern, falling from \$*** million in 2001 to \$*** million in 2002, rising *** to \$*** million in 2003, and then falling to \$*** million in 2004.¹⁷⁹ The domestic industry’s end-of-period inventories increased *** from *** pounds in 2001 to *** pounds in 2002, fell *** to *** pounds in 2003, and then increased to *** pounds in 2004.¹⁸⁰ The ratio of the domestic industry’s inventories to total shipments increased from *** percent in 2001 to *** percent in 2002, fell to *** percent in 2003, and increased to *** percent in 2004.¹⁸¹

The number of production workers and hours worked followed downward trends, declining during each year of the POI.¹⁸² Wages paid to production and related workers fell from 2001 to 2002,

¹⁷² In its notice of initiation, Commerce estimated that the dumping margin for subject imports from Japan to be 129.32 percent. 70 Fed. Reg 16220, 16222 (Mar. 30, 2005).

¹⁷³ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”) SAA at 885.

¹⁷⁴ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

¹⁷⁵ CR and PR at Table III-1.

¹⁷⁶ Id.

¹⁷⁷ Id.

¹⁷⁸ CR and PR at Table III-2.

¹⁷⁹ Id.

¹⁸⁰ CR and PR at Table C-1.

¹⁸¹ CR and PR at Table III-3. The ratio of U.S. inventories to production followed a similar trend, except that the ratio declined from 2003 to 2004. CR and PR at Table III-3.

¹⁸² The number of production and related workers declined from *** in 2001 to *** in 2002, *** in 2003, and *** in 2004. Hours worked fell from *** in 2001 to *** in 2002, *** in 2003, and *** in 2004. CR and PR at (continued...)

rose *** in 2003, and fell again in 2004.¹⁸³ Hourly wages followed a contrary trend, increasing during each year of the POI, while productivity fell from 2001 to 2002 and again to 2003, before rising to its highest level of the POI in 2004.¹⁸⁴

Although average unit sales values increased somewhat over the POI, the domestic industry experienced worsening financial results, both as a result of a lower sales volume (caused in substantial part by a loss of market share to subject imports) and an inability to increase prices to a sufficient degree to offset rising production costs. As noted previously, the quantity and value of the domestic industry's U.S. shipments declined *** from 2001 to 2002, was *** as or *** higher than 2002 in 2003, and fell again in 2004.¹⁸⁵ As also noted, despite increases in average unit sales value, the ratio of the cost of goods sold to net sales increased from *** percent in 2001 to *** percent in 2002, before falling *** to *** percent in 2003, and then increasing to *** percent in 2004.¹⁸⁶

As a result of these trends, the domestic industry suffered deteriorating profitability, generating operating income of \$*** million in 2001, but experiencing *** of \$*** million in 2002, \$*** million in 2003, and \$*** million in 2004.¹⁸⁷ Operating ratios declined from *** percent in 2001 to *** percent in 2002, *** percent in 2003, and *** percent in 2004.¹⁸⁸ Cash flow followed a similar trend, declining from *** in 2001 to *** in 2002 and *** in 2003, and *** in 2004.¹⁸⁹

The domestic industry's capital expenditures declined from \$*** million in 2001 to \$*** million in 2002, before increasing *** in 2003 to \$*** million, and then falling to \$*** million in 2004.¹⁹⁰ Domestic producer Eramet attributed the increase in 2003 to a long-planned investment in a new technology pilot furnace.¹⁹¹ The domestic industry's research and development expenditures fell from \$*** in 2001 to \$*** in 2002, and remained at approximately the same level in 2003 (\$***) and in 2004 (\$***).¹⁹²

For purposes of this preliminary determination, we conclude that subject imports had a negative impact on the condition of the domestic industry during the period examined. As discussed above, we find the volume of subject imports to be significant and that subject imports gained market share at the expense of the domestic industry. Subject imports undersold domestic product by significant margins in every available comparison. While Eramet's sales prices increased somewhat, subject imports prevented the domestic industry to a significant degree from raising prices sufficiently to recoup increased costs. Further, evidence indicates at least a certain volume of lost sales and alleged lost revenues during the investigation period. The domestic industry's lower volume of sales and rising ratio of cost of goods sold

¹⁸² (...continued)
Table III-4.

¹⁸³ Wages paid to production and related workers fell from \$*** million in 2001 to \$*** million in 2002, rose *** to \$*** million in 2003, and fell to \$*** million in 2004. CR and PR at Table III-4.

¹⁸⁴ Hourly wages to production and related workers increased from \$*** in 2001 to \$*** in 2002, \$*** in 2003, and \$*** in 2004. Productivity fell from *** pounds per hour in 2001 to *** pounds per hour in 2002, and *** pounds per hour in 2003, before rising to *** pounds per hour in 2004. CR and PR at Table III-4.

¹⁸⁵ CR and PR at Table III-2.

¹⁸⁶ CR and PR at Table VI-1.

¹⁸⁷ Id.

¹⁸⁸ Id.

¹⁸⁹ Id.

¹⁹⁰ CR and PR at Table VI-3.

¹⁹¹ Petitioners' Postconference Brief at 26. Eramet indicated that it was unable to carry out its plans to build larger-scale furnaces using the new process due to competition from subject imports. Petitioners' Postconference Brief at 26-27.

¹⁹² Petitioners' Postconference Brief at 26.

to net sales resulted in *** worsening financial performance, with *** from 2002 through 2004. We therefore conclude that the significant volume and adverse price effects of the subject imports adversely affected the performance of the domestic industry during the period examined.

V. CONCLUSION

For the reasons stated above, we find a reasonable indication that the domestic industry producing superalloy degassed chromium is materially injured by reason of subject imports from Japan.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Eramet Marietta Inc. (“Eramet”), Marietta, OH, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union (“PACE”), Local 5-0639, Belpre, OH, on March 4, 2005, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of superalloy degassed chromium (“SD chromium”)¹ from Japan. Information relating to the background of the investigation is provided below.²

<i>Date</i>	<i>Action</i>
March 4, 2005	Petition filed with Commerce and the Commission; ³ institution of Commission investigation (70 FR 12499, March 14, 2005)
March 25, 2005	Commission’s conference ⁴
March 30, 2005	Commerce’s notice of initiation (70 FR 16220, March 30, 2005)
April 15, 2005	Commission’s vote
April 18, 2005	Commission’s determination sent to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. U.S. industry data are based on the questionnaire response of one firm (Eramet) that accounted for 100 percent of U.S. production of SD chromium during 2004. U.S. imports from Japan are based on the questionnaire response of the only known importer of the subject product (Mitsui & Co. (U.S.A.), Inc.). The only other known imports are from France. Three large investment casters (Howmet Castings, Dover, NJ; Certified

¹ Commerce has defined the scope as follows: “The product covered by this investigation is all forms, sizes, and grades of superalloy degassed chromium from Japan. Superalloy degassed chromium is a high-purity form of chrome metal that generally contains at least 99.5 percent, but less than 99.95 percent, chromium. Superalloy degassed chromium contains very low levels of certain gaseous elements and other impurities (typically no more than 0.005 percent nitrogen, 0.005 percent sulphur, 0.05 percent oxygen, 0.01 percent aluminum, 0.05 percent silicon, and 0.35 percent iron). Superalloy degassed chromium is generally sold in briquetted form, as “pellets” or “compacts,” which typically are 1½ inches × 1 inch × 1 inch or smaller in size and have a smooth surface. Superalloy degassed chromium is currently classifiable under subheading 8112.21.00 of the Harmonized Tariff Schedule of the United States (“HTS”). This investigation covers all chromium meeting the above specifications for superalloy degassed chromium regardless of tariff classification. Certain higher-purity and lower-purity chromium products are excluded from the scope of this investigation. Specifically, the investigation does not cover electronics-grade chromium, which contains a higher percentage of chromium (typically not less than 99.95 percent), a much lower level of iron (less than 0.05 percent), and lower levels of other impurities than superalloy degassed chromium. The investigation also does not cover “vacuum melt grade” (VMG) chromium, which normally contains at least 99.4 percent chromium and contains a higher level of one or more impurities (nitrogen, sulphur, oxygen, aluminum and/or silicon) than specified above for superalloy degassed chromium. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.”

² *Federal Register* notices cited in the tabulation are presented in app. A.

³ The petition’s alleged LTFV margin, as adjusted by Commerce in its notice of initiation, based on a comparison of a U.S. price quote to adjusted constructed value, is 129.32 percent *ad valorem*.

⁴ A list of witnesses appearing at the conference is presented in app. B.

Alloys, Long Beach, CA; and Precision Castings Corp., Portland, OR) account for about 70 percent of the U.S. market for SD chromium.⁵

THE SUBJECT PRODUCT

SD chromium is included under HTS subheading 8112.21.00 and has a 3 percent general duty rate, applicable to Japan. Table I-1 presents current tariff rates for SD chromium.

Table I-1
SD chromium: Tariff rates, 2005

		General ¹	Special ²	Column 2 ³
HTS provision	Article description	Rates (<i>percent ad valorem</i>)		
8112	Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium, and articles of these metals, including waste and scrap:			
8112.21.00	Chromium: Unwrought; powders kg	3%	Free (A, AU, CA, CL, E, IL, J, JO, MX, SG)	30%
¹ Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to imports from Japan. ² General note 3(c)(i) lists the special tariff treatment programs indicated by these symbols. Goods must meet eligibility rules set forth in other general notes, and importers must properly claim such treatment. ³ Applies to imports from a small number of countries that do not enjoy normal trade relations duty status. Source: Harmonized Tariff Schedule of the United States (2005).				

Physical Characteristics and Uses

Chromium is a hard, bluish-gray metal often used in alloys to endow them with properties such as strength, hardness, permanence, hygiene, color, and resistance to temperature, wear, and corrosion. The subject product (a type of high-purity chromium) is a critical alloying element used in making the superalloys used in jet aircraft turbines and gas-turbine power generators.⁶ Superalloys are a class of alloys with superior heat resistance for use at high temperatures where stresses and oxidation are present.

Manufacturing Process

The manufacturing process can be thought of as occurring in two steps. The first step produces chrome metal from chrome ore or ferrochromium, while the second step refines the chrome metal using a degassing process in a vacuum furnace.⁷ All producers of SD chromium, both domestic and foreign, use a similar vacuum-degassing process in the second step. Different producers use different methods of

⁵ Petition, pp. 36 and 37.

⁶ There are no substitutes for chromium in this application. National Research Council, *High-Purity Chromium Metal: Supply Issues for Gas-Turbine Superalloys* (Washington, DC: National Academy Press, 1995), p. 22 and conference transcript, p. 64 (Houser).

⁷ In 2004, the first step accounted for *** percent of Eramet's cost of production of SD chromium and the second step accounted for *** percent. Petitioners' postconference brief, responses to staff questions, p. 1.

obtaining the chrome metal in the first step: electrolytic, aluminothermic, and silicothermic. Eramet uses an electrolytic process in the first step.

Step One: Electrolytic Process⁸

The chromium source used by Eramet is high-carbon ferrochromium that contains about 67 percent chromium. The ferrochromium is milled to a powder and the ferrochromium powder, along with anhydrous ammonia, is dissolved in sulphuric acid. Iron precipitates out of solution as ferrous ammonium sulfate crystals while the chromium remains in solution. The solution is filtered three times to remove as much iron (as ferrous ammonium sulphate crystals) as possible. The filtrate is then sent to an “ager” system where it is held for several days during which time the chromium precipitates as purple chromium ammonium sulfate crystals. The crystals are filtered out, washed, and dissolved in water. This solution is used as feed for the electrolytic cells.

The solution in the electrolytic cells remains in the cells for about 3-4 days while the chromium plates the cathodes. At the end of the plating cycle, the cathodes are removed and the chromium deposits are removed from the cathodes by hammering, which causes the thick chromium deposits to break off in pieces in the form of flakes or chips. The chromium flakes are about 99.1 percent chromium, by weight, and can be used in a variety of air melt applications (applications that do not require the chromium to undergo a degassing process in a vacuum furnace).⁹ After cooling, the flake chromium can be packaged and sold as is, or further processed into degassed chromium or any of several other downstream products.

Step Two: Vacuum Degassing Process

Vacuum degassing is the final refinement step for the production of SD chromium metal. Eramet’s process is described here but it is similar to the degassing process used by SD chromium producers in other countries.

The chromium flakes are first milled to a fine powder and then blended into a briquetting mixture with finely divided carbon, tin, and a polymeric binder. The quantities of these additives will depend on the composition of the feed chromium metal. This mixture is wetted and formed into small briquettes, which are allowed to dry and placed in separate lots on a long railcar. The railcar is placed in a long, cylindrical, vacuum furnace, which is closed and evacuated with a steam extractor. The furnace is heated at a rate sufficiently slow to accommodate offgassing without excessive increases in pressure. When the maximum temperature is reached, it is held for some time. It is then allowed to cool while a stream of argon gas is admitted. Final purging is accomplished with helium. This inert gas is introduced into the furnace and circulated through heat exchangers to cool the briquettes. During the process, nitrogen and lead are volatilized, and sulfur and oxygen are removed as tin sulfide and carbon dioxide, respectively.¹⁰ The briquettes are then removed, analyzed, and packaged for shipment.

⁸ Information used in the description of the manufacturing process was obtained from the petition, pp. 7-8 and from the National Research Council, *High-Purity Chromium Metal: Supply Issues for Gas-Turbine Superalloys*, (Washington, DC: National Academy Press, 1995), pp. 29-36.

⁹ Obtained from Eramet’s website at: <http://www.emspecialproducts.com/specs.php?grade=4>, retrieved March 29, 2005. Vacuum degassing (e.g., heating a substance in a vacuum furnace) purifies a substance by removing dissolved gasses and causing certain impurities to volatilize. Chromium alloys used in aircraft engine applications require a high level of purity and are normally vacuum-melted (National Research Council, *High-Purity Chromium Metal: Supply Issues for Gas-Turbine Superalloys* (Washington, DC: National Academy Press, 1995), p. 22). Therefore, flake chromium would not be used in these applications.

¹⁰ The carbon added to the process combines with the oxygen in the briquettes to form carbon dioxide and the tin added to the process combines with the sulfur in the briquettes to form tin sulphide.

Production Processes of Foreign Producers

According to Eramet, there are only four world producers of SD chromium: Eramet, Delachaux SA (“Delachaux”), JFE Material Co., Ltd. (“JFE”), and Japan Metals and Chemicals Co., Ltd. (“JMC”).¹¹ Only Eramet, JFE, and Delachaux are currently qualified to sell SD chromium in the United States to be used in making superalloys in aircraft engine production.¹² Eramet is the only SD chromium producer to use the electrolytic process in the first step of the production process. Delachaux uses the aluminothermic process and JFE uses a silicothermic process.

In the silicothermic process, chromium oxide, silicon metal, and calcium oxide are combined in an electric arc furnace. As materials are melted, the silicon combines with the oxygen in the chromium oxide, and molten chromium and slag (unwanted elements) are produced. After the slag is removed, the chromium undergoes additional refining to remove or reduce other elements such as silicon, sulphur, phosphorus, carbon, and oxygen. The molten chromium is then removed from the furnace and poured into molds and cast. After casting, the chromium is shot blasted to remove residual slag attached to the chromium and is then crushed and sized. Magnet separation is employed to further separate any remaining slag from the chromium. The same basic process is used by the French producer Delachaux with the exception of using aluminum instead of silicon to remove oxygen from the chromium oxide.¹³

Domestic Like Product Issues

High-purity chromium (greater than 99 percent chromium) is produced with various levels of impurities. There are no industry-wide standard grades. Petitioners address three types of high-purity chromium: SD chromium, vacuum-melt grade (“VMG”) chromium, and “electronics” grade (“EG”) chromium. Specifications for the various types of high-purity chromium are presented in table I-2. Eramet does not consider the VMG and EG grades to be suitable for inclusion in the domestic like products. Information on domestic like product factors is presented below.¹⁴

¹¹ Conference transcript, p. 66 (Vorgerger). ***. In a staff telephone interview with ***.

¹² Petition, p. 37.

¹³ Petitioners’ postconference brief, p. 1 of attachment.

¹⁴ The Commission’s domestic like product determination is based on a number of factors, including (1) physical characteristics and uses, (2) common manufacturing facilities and production employees, (3) interchangeability, (4) customer and producer perceptions, (5) channels of distribution, and where appropriate, (6) price.

Table I-2

Chromium: Impurity levels (in percent) and typical uses, by type

Chromium: Impurity levels (in percent) and typical uses, by type							
Chromium type	Cr	N	S	O	Fe	Form	Typical uses
	(Minimum)	(Maximum)					
Electrolytic	99.1	0.050	0.030	0.55	0.20	Flake, powder	High-temperature, corrosion resistant, electrical resistance, and aluminum alloys
VMG	99.5	0.01	0.01	0.15	0.30	Pellets	Wrought components for jet aircraft and power generation gas turbine engines
SD (regular grade)	99.5	0.005	0.005	0.05	0.25	Pellets	Cast components for jet aircraft and power generation gas turbine engines
EG	99.95	0.003	0.005	0.01	0.008	Flake, powder	LCD displays

Note.—Cr - chromium, N - nitrogen, S - sulphur, O - oxygen, and Fe - iron.

Source: Specifications and typical uses for regular, vacuum-melt, and SD chromium compiled from Eramet's website at: <http://www.emspecialproducts.com/specs.php?grade=11>, <http://www.emspecialproducts.com/specs.php?grade=4>, and petition, p. 19; electronics-grade specifications compiled from International Specialty Alloys website at http://www.specialtyalloys.com/chromium_flake.htm, retrieved April 1, 2005, electronics-grade typical uses obtained from petition, p. 13.

VMG Chromium¹⁵

Physical characteristics and uses

Vacuum-melt grade contains substantially higher levels of critical impurities (such as nitrogen, sulfur, and iron) than SD chromium. Due to these higher levels of impurities, vacuum-melt grade is used in producing wrought components for jet aircraft and power generation gas turbine engines and cannot be used in the SD chromium high-end applications (cast components for jet aircraft and power generation gas turbine engines). High-end cast components are subjected to greater heat and physical stress than are low-end wrought components.¹⁶ Petitioners indicate that VMG chromium is also used in lower-end applications such as corrosion resistant metal piping, plate, and sheet.¹⁷

Interchangeability

Some purchasers substituted vacuum-melt grade for SD chromium due to increased cost pressures during 2001-02, in end-use applications where the vacuum-melt grade's higher impurity levels were acceptable. All purchasers continue to purchase SD chromium for end-use applications where its lower levels of impurities are required.

¹⁵ Petition, pp. 16-23.

¹⁶ Petitioners' postconference brief, p. 13.

¹⁷ Ibid, p. 14.

Price

Eramet has sold most of its SD chromium at prices ranging from \$*** to \$*** per pound. Delachaux has sold SD chromium *** in the United States. JFE's U.S. importer Mitsui sells SD chromium at about \$*** per pound. VMG is sold at prices ranging from \$*** to \$*** per pound.

Manufacturing facilities

Most of the VMG chromium sold in the United States is produced by London & Scandinavian Metallurgical Co. Ltd. ("LSM") of the United Kingdom and Delachaux (Eramet produces a small amount). Their VMG chromium is produced in a variation of the aluminothermic process, in which they limit the exposure of the molten chromium to the air as it cools. While this process is much less costly than producing SD chromium in a vacuum degassing furnace, it does not yield the same low nitrogen, oxygen, and sulphur levels. Consistent with the fact that Eramet is not a major producer of VMG chromium, it uses a different VMG production process than LSM and Delachaux. In 2003, Eramet began producing for commercial sale "VMG" chromium using a modified vacuum degassing process in which ***.¹⁸ ***.¹⁹ ***.²⁰

Channels of distribution

Although VMG and SD chromium are sold to superalloy producers, there are differences between the markets for these products. Three investment casters account for about 70 percent of the SD chromium consumed in the United States.²¹ The VMG chromium market is much larger than the SD chromium market and consumption is spread across a larger number of customers with a wider variety of end users.

EG Chromium²²

Physical characteristics and uses

EG has a higher minimum chromium content than SD chromium (99.95 and 99.5 percent, respectively) and has much lower levels of impurities - especially iron (table I-2). Virtually all EG chromium is used in high-end electronics applications, such as production of LCD displays, where extremely low levels of iron are required.

Interchangeability

EG and SD chromium are not used interchangeably. SD chromium is not used for the high-end electronics applications for which EG chromium is used because it does not contain the extremely low iron levels required for these applications. While EG chromium meets the chemical specifications for SD chromium, the vast majority of EG chromium is sold in powder form. SD chromium is typically sold in

¹⁸ Eramet indicates that when chromium flakes are milled, certain high-impurity dust is separated out for the production of VMG rather than SD chromium. Petitioners' postconference brief, responses to staff questions, pp. 3-4.

¹⁹ Petitioners' postconference brief, responses to staff questions, p. 3.

²⁰ Ibid., p. 4 and staff field trip report, Eramet, March 16, 2005.

²¹ Petitioners' postconference brief, pp. 17, 21.

²² Petition, pp. 21-22.

briquette or pellet form. It is impractical for superalloy producers to use chromium in powder form. Moreover, EG chromium costs over four times as much as SD chromium. Therefore, it is not commercially feasible to substitute EG chromium for SD chromium in superalloy applications.

Price

The EG chromium price is about \$34.00 per pound compared to less than \$8.00 per pound for SD chromium.²³

Manufacturing facilities

The sole U.S. producer of EG chromium, International Specialty Alloys (“ISA”), does not produce SD chromium.²⁴ Eramet has not produced any EG chromium on a commercial basis. On a test basis, Eramet has produced EG chromium using the same manufacturing facility that it uses to produce its SD chromium. However, Eramet used additional production steps to produce EG chromium, which are needed to obtain the very low iron level of EG chromium. Specifically, ***.

Channels of distribution

EG chromium is sold to electronics producers or, in some cases, companies supplying intermediate products to electronics producers. SD chromium is sold almost exclusively to superalloy producers.

²³ Petition, exh. 7D(ii).

²⁴ ISA uses a hydrogen reduction process to produce EG chromium. The typical input into the process is electrolytic chromium although other forms of chromium can be used. The metal is heated in a closed-circuit stream of dry, pure hydrogen. The process purifies the chromium by removing oxygen and nitrogen from the chromium. ***. Staff telephone interview with ***, ***, April 11, 2005.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

Eramet stated that in the U.S. market, virtually all SD chromium is sold to superalloy producers and that a few large firms, known as “investment casters,” are the primary producers of the high-end superalloys used to make the most critical components in jet aircraft and industrial gas turbine engines.¹ Eramet reported that three investment casters (Howmet Castings, Certified Alloys, and Precision Castings) account for approximately 70 percent of the total demand for SD chromium and reported that Eramet sells nearly all of its SD chromium in the U.S. market directly to end users.²

***.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, the U.S. SD chromium producer is likely to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced SD chromium to the U.S. market. The main contributing factors to the large degree of responsiveness of supply are the existence of alternate markets, the availability of unused capacity, the existence of inventories, and an ability to produce alternate products.

Industry capacity

Eramet’s reported capacity utilization for SD chromium fell from *** percent to *** percent between 2001 and 2004. This level of capacity utilization indicates that the U.S. producer has unused capacity with which it could increase production of SD chromium in the event of a price change.

Alternative markets

Eramet’s exports of SD chromium (as a percentage of total shipments) decreased from *** percent to *** percent between 2001 and 2004. These data indicate that the U.S. producer has some ability to divert shipments to or from alternative markets in response to changes in the price of SD chromium.

Inventory levels

Eramet’s inventories, as a percentage of total shipments, increased between 2001 and 2004, from *** percent in 2001 to *** percent in 2004. These data indicate that the U.S. producer has the ability to use inventories as a means of increasing shipments of SD chromium to the U.S. market.

¹ Petition, p. 9.

² Ibid.

Production alternatives

The U.S. producer has the ability to use at least some of the equipment used to produce SD chromium to produce other products. Eramet reported that the chrome metal that it produces in the electrolytic stage of production is sold as the base chrome metal and is used to produce a variety of value-added products (such as VMG and chromium carbide).³

Subject Imports

Based on available information, the Japanese producer is likely to respond to changes in demand with large changes in the quantity of shipments of SD chromium to the U.S. market. The main contributing factors to the large degree of responsiveness of supply are the existence of alternate markets, the availability of unused capacity, and availability of inventories, moderated by an inability to produce alternate products.

Industry capacity

The Japanese producer's reported capacity utilization for SD chromium increased from *** percent in 2001 to *** percent in 2003 and then fell to *** percent in 2004. This level of capacity utilization indicates that the Japanese producer has unused capacity with which it could increase production of SD chromium in the event of a price change.

Alternative markets

The Japanese producer's shipments of SD chromium to markets other than the United States (its home market and other export markets) fell from *** percent of shipments in 2001 to *** percent of shipments in 2004. These data indicate that the Japanese producer has the ability to divert shipments to or from alternative markets in response to changes in the price of SD chromium.

Inventory levels

The Japanese producer's inventories, as a ratio to total shipments, decreased irregularly from *** percent in 2001 to *** percent in 2004. These data indicate that the Japanese producer has some ability to use inventories as a means of increasing shipments of SD chromium to the U.S. market.

Production alternatives

***.

U.S. Demand

Based on available information, SD chromium consumers are likely to respond to changes in price with small changes in their purchases of SD chromium. The main contributing factors to the small degree of responsiveness of demand is the typically low cost share of end uses and the limited substitutability of other products for some applications.

³ Conference transcript, pp. 72-73 (Kramer and Houser).

Demand Characteristics

Petitioner indicates that demand for SD chromium depends on the demand for jet engines; gas turbines used to generate electric power; and, to a very limited degree, metal coatings, electronics, and other products including electronics applications not requiring the lower iron content of the electronics-grade chromium.⁴ Eramet stated that these three groups of applications account for approximately 70 percent, 25 percent, and 5 percent of consumption, respectively.⁵

Eramet reports that during the period examined, demand in the aerospace and power generation segments of the market declined, while demand for other market segments has been flat since 2001.⁶ However, Eramet states that demand for SD chromium stabilized in 2003 and is now increasing.⁷ *** indicated that changes in demand during the period examined were “unknown.”

Substitute Products

Eramet states that although there are no commercially viable substitutes for degassed chromium in high-level superalloy applications, there are substitutes in some low-end applications.⁸ For example, Eramet notes that some customers have revised their production specifications to be able to accept lower grades of chromium that are less expensive and for which the quality and purity has improved sufficiently in recent years to meet some of their customers’ specifications.⁹ However, Eramet also indicates that is not commercially feasible to substitute EG chromium for SD chromium in superalloy applications.¹⁰ *** indicated that substitutes for SD chromium were “unknown.”

Cost Share

According to Eramet, in superalloy applications, degassed chromium typically accounts for 10 percent to 12 percent of the product by weight, but less than 5 percent of the cost of the end product.¹¹ *** indicated that end uses for SD chromium were “unknown.” Three of four responding purchasers indicated that the cost share was less than 10 percent. ***.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported SD chromium depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a high level of substitutability between domestically produced SD chromium and SD chromium imported from Japan and other sources.

⁴ Petition, p. 34, 36.

⁵ Petition, p. 34.

⁶ Petition, pp. 35-36.

⁷ Petition, p. 20.

⁸ Petition, p. 38.

⁹ Petition, pp. 38-39, 50-51.

¹⁰ Petition, p. 14.

¹¹ Petition, p. 38.

Factors Affecting Purchasing Decisions

Eramet reports that once a supplier has qualified with its customers, competition among suppliers is fundamentally based on price, and relatively small differences in price can lead purchasers to switch suppliers.¹² Eramet also indicates that economic difficulties in the aerospace sector and pressure from parent companies have placed pressure on their customers to reduce costs.¹³

*** purchasers indicated that price was a reason why the relative share of their purchases of SD chromium decreased for the U.S.-produced product and increased for the Japanese-produced product. *** also indicated that the shorter consignment terms and lower quality of the U.S.-produced SD chromium were reasons why their relative purchases decreased for the U.S.-produced product and increased for the Japanese-produced product.

Eramet reports that SD chromium producers must qualify with their purchasers, and in some cases with their purchasers' customers.¹⁴ Petitioners indicate that all three suppliers in the U.S. market (Eramet, JFE, and Delachaux) are currently qualified to sell to investment casters.¹⁵

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

*** indicated that U.S.-produced and imported SD chromium from Japan and other countries are "always" used interchangeably. *** indicated no familiarity with comparisons of U.S.-produced and imports from Japan and other countries of SD chromium.

*** indicated that differences in product characteristics or sales conditions between U.S.-produced and imports from nonsubject sources of SD chromium are "never" a significant factor in its firm's sales. ***.

*** indicated that U.S.-produced and Japanese produced SD chromium were "comparable" with respect to delivery terms, minimum quantity requirements, packaging, product range, transportation network, and U.S. transport cost. *** indicated that U.S.-produced SD chromium was "inferior" to Japanese-produced product with respect to availability, consignment terms, discounts, product consistency, product quality, reliability of supply, and technical support, while *** indicated that product from these two sources was "comparable" with respect to these factors. *** indicated that U.S.-produced SD chromium was "superior" to the Japanese-produced product in delivery time, while the remaining two responding purchasers indicated that product from these two sources was "comparable" with respect to this factor. *** indicated that U.S.-produced SD chromium was "inferior" to Japanese-produced product with respect to price.

¹² Petition, p. 38.

¹³ Petition, p. 9.

¹⁴ Petition, p. 37.

¹⁵ Petition, p. 37. However, Eramet indicates that, in 2001, ***.

PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire response of one firm that accounted for 100 percent of U.S. production of SD chromium during the period examined (2001-04).

U.S. PRODUCER

Producer questionnaires were sent to two firms, of which only Eramet¹ is a U.S. producer.² Tables III-1 through III-4 present data concerning Eramet's U.S. production, shipments, inventories, and employment, respectively, of SD chromium.

Table III-1

SD chromium: U.S. producer's capacity, production, and capacity utilization, 2001-04

* * * * *

Table III-2

SD chromium: U.S. producer's shipments, 2001-04

* * * * *

Table III-3

SD chromium: U.S. producer's end-of-period inventories, 2001-04

* * * * *

Table III-4

SD chromium: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2001-04

* * * * *

Although Eramet's capacity increased somewhat between 2001 and 2004, production decreased ***, as did shipments, inventories, and employment. However, the unit values of Eramet's domestic and

¹ Eramet produces SD degassed chromium, other special products (including aluminum hardeners, electrolytic chromium, vacuum products, and specialty metals), and manganese ferroalloys at its plant in Marietta, OH. Eramet's operations producing superalloy degassed chromium and other special products are located on the north side of the plant site. The south side of the plant consists of Eramet's manganese ferroalloy operations. Eramet is part of the Eramet Group, an international metals and minerals producer with a focus on nickel, manganese, and high-performance steels and alloys. The Eramet Group is headquartered in Paris, France and has manufacturing or mining facilities in China, France, Gabon, Norway, and the United States.

² International Specialty Alloys, of Newcastle, PA, produces EG chromium that is not covered by this petition. Petition, p. 1.

export shipments both increased over the same period. Eramet's capacity to produce SD chromium ***
current apparent U.S. consumption of the product.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent questionnaires to 15 possible importers of SD chromium identified in the petition and/or in information provided by U.S. Customs and Border Protection (“Customs”). Two firms supplied usable data concerning imports of SD chromium, of which only one (Mitsui & Co. (U.S.A.), Inc. (“Mitsui”)) imported SD chromium from Japan.¹ The only other major importer, (***, which imports from France), did not respond to the Commission’s questionnaire because its parent (Delachaux) did not provide the information needed to complete the importers’ questionnaire.² Ten firms responded that they did not import the subject product and three did not respond. There are no known related parties in this investigation as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

U.S. IMPORTS

Data on U.S. imports from Japan presented in this report are the data of the known importer of Japanese SD chromium (table IV-1).³ Data on imports from France are based on petitioners’ estimates.⁴ Official import statistics were not used because the HTS subheading under which SD chromium enters the United States includes chromium products other than SD chromium.

During 2001-04, imports of SD chromium from Japan increased, whereas imports from other countries and total imports decreased between 2001-03 and then rose in 2004.

Table IV-1
SD chromium: U.S. imports, by sources, 2001-04

* * * * *

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data collected in this investigation concerning apparent U.S. consumption and market shares of SD chromium, as shown in table IV-2, are based on the sole U.S. producer’s and importer’s U.S. shipments of SD chromium provided in response to Commission questionnaires. Apparent U.S. consumption declined substantially in 2002, decreased in 2003, and increased in 2004. According to Eramet, the demand for SD chromium in the aerospace and power generation sectors declined sharply between 2001 and 2002 following the events of September 11, 2001, the collapse of artificially high

¹ Mitsui & Co., Inc. and Process Materials, Inc. Mitsui reported imports of subject product from Japan and *** reported imports of nonsubject EMG chromium from ***.

² ***.

³ Mitsui & Co. (U.S.A.), Inc. is a wholly owned subsidiary of Mitsui & Co., Ltd., Japan, which is a diversified trading, investment, and service enterprise operating globally. Mitsui USA is engaged in such traditional businesses as importing, exporting, offshore trade, and domestic wholesale. Mitsui USA’s international trade activities include such commodity groups as iron and steel, chemicals, machinery, lumber & pulp, raw metals (including chromium), coal, petroleum, grain, sugar, fertilizers, foodstuffs, and consumer products. Mitsui USA’s core businesses are bolstered and facilitated by its wide-range service capabilities in information and research, financial arrangement, risk management, supply chain management, and logistics planning and execution, among others.

⁴ The petition identifies Delachaux of France as a supplier of SD chromium and exhibit 1 of petitioners’ posthearing brief estimates the imports from France as follows: ***.

power prices in late 2001, and the fact that some purchasers shifted consumption of SD chromium to VG chromium and lower purity forms of chromium.⁵ Eramet's share of apparent U.S. consumption decreased from *** percent in 2001 to *** percent in 2004; Japan's share of apparent consumption increased from *** percent in 2001 to *** percent in 2004.

Table IV-2

SD chromium: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 2001-04

* * * * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of SD chromium is presented in table IV-3.

Table IV-3

SD chromium: Ratio of U.S. imports to U.S. production, by sources, 2001-04

* * * * * * *

⁵ Petition, p. 20.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

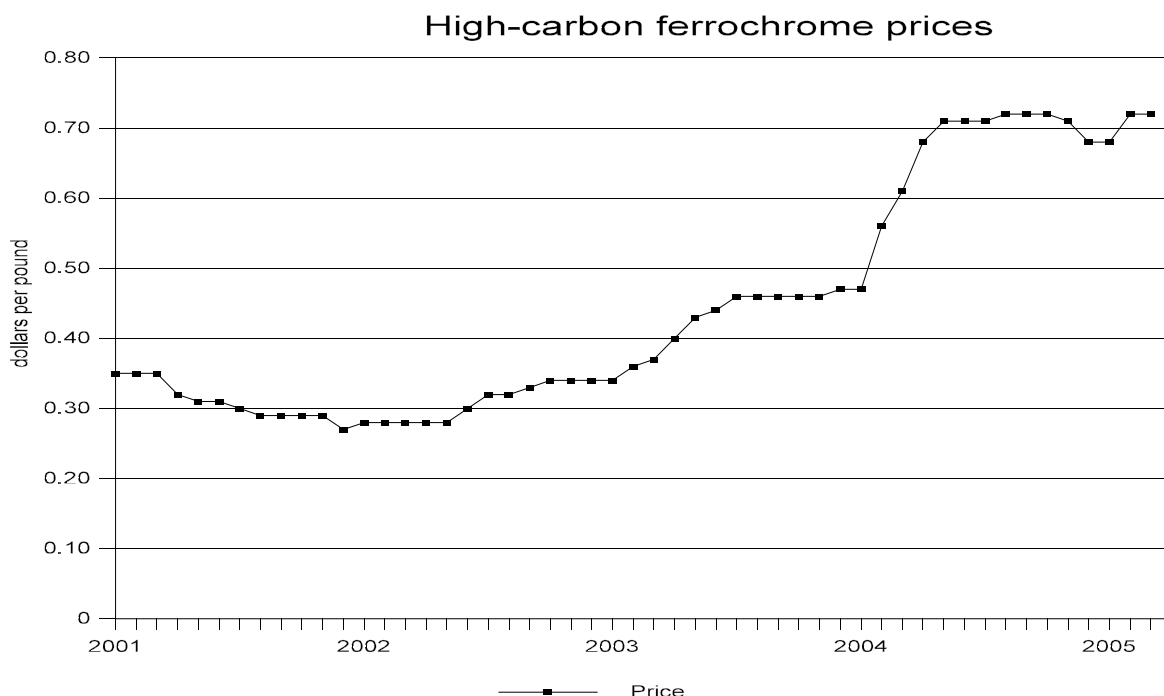
Raw Material Costs

Raw materials made up about *** percent of the cost of goods sold for the domestic producer of superalloy degassed chromium in 2004. Petitioners indicated that high-carbon ferrochrome is the key raw material for the electrolytic process that it uses to produce SD chromium.¹ The price of high-carbon ferrochrome fell by 21 percent between January 2001 and January 2002, and then increased by 21 percent between January 2002 and January 2003, 38 percent between January 2003 and January 2004, and 45 percent between January 2004 and January 2005 (figure V-1).

Figure V-1

High-carbon ferrochrome: Prices, by month, January 2001-March 2005

Source: Metal Bulletin, "Ferro-chrome 6-8% C basis 60-65% Cr max 2% Si, United States", reported periodically.



Monthly price for a particular month is the first price reported for that month. Since there was no price reported in August 2003, the price reported for July 31, 2003 (which is also the only price reported for July 2003) is used.

¹ Petition, pp. 7, 48.

Transportation Costs to the U.S. Market

Transportation costs for SD chromium from Japan to the United States in 2004 (excluding U.S. inland costs) are estimated to be equivalent to approximately 1.8 percent of the total f.o.b. port-of-exportation cost of SD chromium.² These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.³

U.S. Inland Transportation Costs

U.S. inland transportation costs for SD chromium comprise a small portion of the cost of both the U.S. and imported product. Eramet reported that U.S. inland transportation costs make up *** percent of the total cost of SD chromium on average, while importer Mitsui reported that U.S. inland transportation costs make up *** percent of the total cost.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Japanese yen appreciated 12 percent relative to the U.S. dollar from the first quarter of 2001 to the fourth quarter of 2004 (figure V-2). The real value of the Japanese yen remained unchanged vis-a-vis the U.S. dollar in that time period.

PRICING PRACTICES

Eramet indicates that between 80 to 90 percent of SD chromium is sold under annual contracts and indicates that customers solicit bids for the coming year's business a few months prior to the end of the year.⁴ ***.

***.

Sales Terms and Discounts

*** reported that they *** to their customers, sell SD chromium on a *** basis, and that the *** usually arranges for transportation.

Eramet indicates that it is common practice for suppliers to sell SD chromium on a consignment basis.⁵ It indicates that suppliers place the material at the customer's premises, the customer provides the supplier with regular reports on quantities consumed, and then is billed for those quantities.⁶ Petitioner indicates that Eramet sets a *** limit for consignment, while JFE Material (Mitsui) offers an unlimited

² Transportation costs for SD chromium from Japan to the United States in 2002 and 2003 (excluding U.S. inland costs) are estimated to be equivalent to approximately 1.7 percent and 2.2 percent, respectively, of the f.o.b. port-of-exportation costs of SD chromium.

³ These estimates are based on imports under HTS subheading 8112.21.00 entered at the port of New York City. Petitioners indicate that virtually all of the entries identified as subject merchandise were unladed and entered at the port of New York City. Petition, p. 27, fn. 45. Transportation costs for imports entered at all ports under this subheading in 2002, 2003, and 2004 were equivalent to 19.8 percent, 20.9 percent, and 8.1 percent, respectively, of the f.o.b. port-of-exportation cost of SD chromium.

⁴ Petition, p. 39.

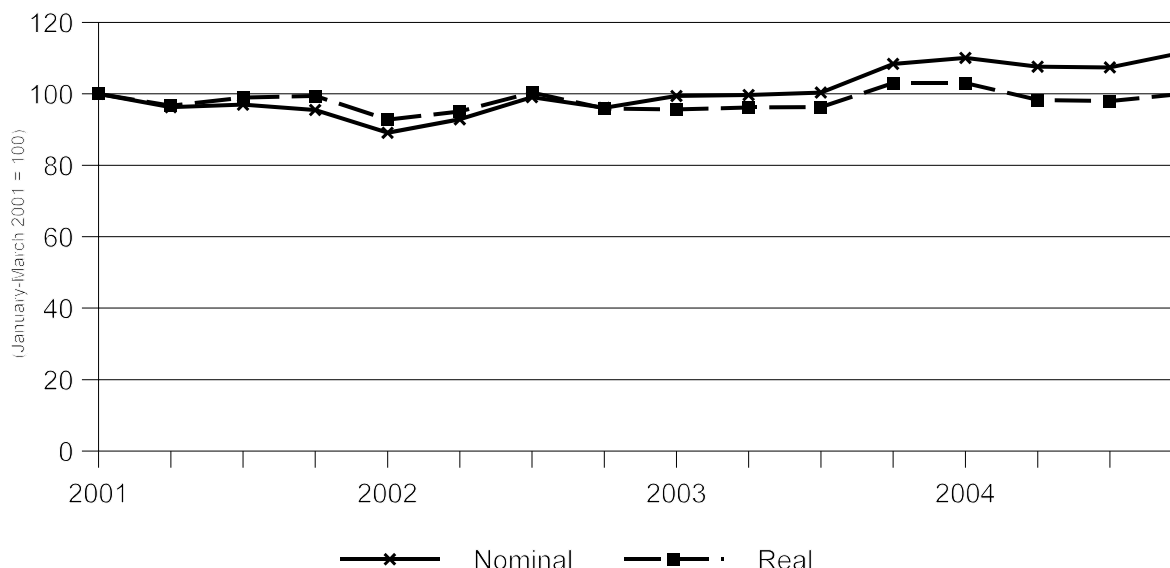
⁵ Petition, p. 39.

⁶ Petition, p. 39.

time on consignment.⁷ However, Mitsui indicates that in 2004, its merchandise was held in consignment for *** days on average for all customers; the figures were ***. Eramet indicated that in 2004, its merchandise was held in consignment for *** days on average, ***.

Figure V-2

Exchange rates: Indices of the nominal and real exchange rates of the Japanese yen relative to the U.S. dollar, by quarters, January 2001-December 2004



Source: International Monetary Fund, *International Financial Statistics*, retrieved from <http://ifs.apdi.net/imf/about.asp> on March 18, 2005.

PRICE DATA

The Commission requested U.S. producers and importers of SD chromium to provide quarterly data for the total quantity and value of SD chromium that was shipped to unrelated purchasers in the U.S. market. Data were requested for the period January 2001 to December 2004. The products for which pricing data were requested are as follows:

Product 1.--Regular Grade: For sales to superalloy producers - SD chromium containing more than 0.002 percent nitrogen and more than 0.001 percent sulfur.

Product 2.--Low-Nitrogen Grade: For sales to superalloy producers - SD chromium containing 0.002 percent or less nitrogen and more than 0.001 percent sulfur.

Product 3.--Low-Sulfur Grade: For sales to superalloy producers - SD chromium containing 0.001 percent or less sulfur and more than 0.002 percent nitrogen.

Product 4.--Low-Nitrogen and Low-Sulfur Grade: For sales to superalloy producers - SD chromium containing 0.002 percent or less nitrogen and 0.001 percent or less sulfur.

⁷ Petition, p. 40.

*** provided usable pricing data for sales of the requested products, although neither firm reported pricing for all products for all quarters.⁸ These prices are presented below (tables V-1 and V-2, and figures V-3 and V-4). Pricing data reported by these firms accounted for *** percent of the U.S. producer's reported shipments of SD chromium and *** percent of U.S. shipments of SD chromium imported from Japan in 2004.

Table V-1

SD chromium: Weighted-average delivered prices and quantities of domestic and imported product 1 sold to purchasers, and margins of underselling/(overselling), by quarters, January 2001-December 2004

* * * * *

Table V-2

SD chromium: Weighted-average delivered prices and quantities of domestic products 2, 3 and 4 sold to purchasers, by quarters, January 2001-December 2004

* * * * *

Figure V-3

SD chromium: Weighted-average delivered prices of domestic and imported product 1, by quarters, January 2001-December 2004

* * * * *

Figure V-4

SD chromium: Weighted-average delivered prices of domestic products 2, 3, and 4 by quarters, January 2001-December 2004

* * * * *

Prices of U.S.-produced product 1 generally increased and prices of imports of product 1 from Japan were mixed during the period examined. The price of U.S.-produced product 1 increased by *** percent between the first quarter of 2001 and the fourth quarter of 2004, while the price of product 1 imported from Japan increased by *** percent between the *** quarter of 2001 and the fourth quarter of 2004.⁹ The prices of U.S.-produced products 2 and 3 increased by *** percent and *** percent, respectively, between the first quarter of 2001 and the fourth quarter of 2004, while the price of U.S.-produced product 4 fell by *** percent between the ***.

Price Comparisons

Overall there were 11 instances where prices for domestic SD chromium and imported subject Japanese SD chromium could be compared. In all 11 of these comparisons, the subject imported product was priced below the domestic product. Margins of underselling averaged 15.2 percent, ranging from 11.0 percent to 27.7 percent.

⁸ ***.

⁹ The correlation coefficient between prices for domestic product 1 and the corresponding subject Japanese pricing product was 0.50. Correlation coefficients do not necessarily imply causation and these price trends may track one another for reasons having nothing to do with each other's prices, such as macroeconomic trends or prices of other substitute or downstream goods.

Eramet indicates that it faced a cost-price squeeze during the period examined, with its cost of goods sold increasing substantially in the face of rising raw material and energy costs while it was unable to make compensatory increases in its prices to cover these higher costs.¹⁰ Eramet indicates that between 2001 and 2004, costs for inputs such as ***, which make up *** percent of the total value of raw materials and energy, increased by amounts ranging from *** to *** percent.¹¹ Figure V-5 compares the prices of U.S.-produced products 1, 2, and 3 and the price of high-carbon ferrochrome. Correlation coefficients between the prices of U.S.-produced products 1, 2, and 3 and the high-carbon ferrochrome were 0.71, 0.61, and -0.18, respectively.

Figure V-5

SD chromium: Price indices of weighted-average delivered prices of domestic products 1, 2, and 3, and of high-carbon ferrochrome, by quarters, January 2001-March 2005

* * * * *

BID DATA

The Commission requested U.S. purchasers of SD chromium to provide data on the price negotiation process. Data were requested for the period January 2001-December 2004. Three end users provided usable bid data for sales of the requested products, although not all firms reported pricing for all years (see table V-3).¹² Bid data were grouped by purchaser and year. Initial and awarded bids are provided when they were reported. A total of 13 bid contracts for SD chromium were reported for the period examined, involving *** million pounds valued at \$*** (in winning bid values). Of these contracts, *** percent of the quantity of the contracts was awarded to U.S. suppliers and *** percent of the quantity was awarded to Japanese suppliers.

Table V-3

SD chromium: Bid information and sales to purchasers, January 2001-December 2004

* * * * *

¹⁰ Conference transcript, p. 28 (Button).

¹¹ Petitioners' postconference brief, exhibit 5.

¹² ***.

Comparisons By Bidding Process

Of the 13 reported contracts for the superalloy degassed chromium market, 11 contracts worth \$*** resulted from a competitive bid process. Of the 11 contracts involving competing bids, 6 were entirely awarded to the lowest bidder and the other 5 were split between multiple bidders (in all cases including the lowest bidder). Five of the 11 competitive contracts involved competition between U.S. and Japanese suppliers.¹³ The Japanese supplier bid lower than the lowest U.S. bid in all five of these contracts.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of SD chromium to report any instances of lost sales or revenues they experienced due to competition from imports of SD chromium from Japan during January 2002 to December 2004. The *** lost sales allegations totaled \$*** for *** pounds and the *** usable lost revenue allegations totaled \$*** for *** pounds. Staff attempted to contact all purchasers named in these allegations and received at least partial responses from *** purchasers; a summary of the information obtained follows (tables V-4 and V-5).

***.

Table V-4
SD chromium: U.S. producer's lost sales allegations

* * * * *

Table V-5
SD chromium: U.S. producer's lost revenue allegations

* * * * *

***.

***.

***.

***.

***.

¹³ ***.

PART VI: FINANCIAL EXPERIENCE OF ERAMET

BACKGROUND

Eramet is the sole known U.S. producer of SD chromium, and it provided usable financial data on its operations.¹ Eramet produces a full line of manganese alloys in one part of its plant at Marietta, OH, and SD chromium (part of a group of “special products”) in another part of the plant.² Sales of SD chromium accounted for *** percent of Eramet’s total sales in 2004.³

Eramet prepares a GAAP-based fully absorbed product cost statement for each department on a monthly basis, and it provided a copy of these statements for each of the four years of the period examined with its postconference brief.⁴ The firm’s questionnaire data are consistent with its internal statements.⁵

OPERATIONS ON SD CHROMIUM

Income-and-loss data for Eramet’s operations on SD chromium are presented in table VI-1.

Table VI-1
SD chromium: Results of Eramet’s operations, 2001-04

* * * * * * *

The quantity and value of Eramet’s sales fell by *** between 2001 and 2002, and again decreased between each of the years 2002-04. Reportedly, the vast majority of the decline between 2001 and 2002 was attributable to the demand shocks of 9/11 and bursting of the energy bubble, while a contributing factor to the decline during 2002 and 2003 was that some consumers substituted lower-cost VMG chromium metal for SD chromium.⁶ The average unit value (“AUV”) of sales increased between each of the yearly periods, but did not compensate for the decline in volume. The total cost of goods sold (“COGS”) decreased between 2001 and 2003 (somewhat in line with the decline in quantity sold), before rising between 2003 and 2004. The AUV of raw materials and direct labor increased during 2001-03

¹ Eramet has a fiscal year that ends on ***. The data reported in the trade, financial, and pricing sections of the Commission’s questionnaire reconciled. The Marietta, OH plant has been in operation since August 1951. Union Carbide, the plant’s first owner and operator, sold the site to Elkem (owned by the Norwegian firm of the same name) in 1981, and Elkem sold the site to Eramet SA, a French mining and metallurgical company, in 1999. Eramet’s web site found at <http://www.emspecialproducts.com/products.php>, retrieved on March 10, 2005.

² Eramet’s web site found at <http://www.emspecialproducts.com/products.php>, retrieved on March 10, 2005.

³ Eramet’s questionnaire response, p. 8. Sales of manganese alloys accounted for *** percent of total net sales in 2004, and sales of special products accounted for the balance. This latter group of products includes aluminum hardeners (*** percent of total net sales in 2004); electrolytic chromium metal (*** percent); low-carbon ferrochrome, nitrided chromium, and chromium carbide (together accounting for *** percent); and vacuum-melt grade chromium metal (VMG) (*** percent).

⁴ Eramet’s postconference brief, exh. 9.

⁵ These statements show both the variable and fixed costs of production and distribution of each of Eramet’s products. While variable costs are direct costs of manufacture, fixed costs are ***. However, it should be noted that the allocation of fixed costs to the subject product (accounting for approximately ***) are very much affected by changes in the production and sales of Eramet’s other products, including nonsubject chromium and nonsubject manganese products.

⁶ Eramet’s postconference brief, responses to staff questions, p. 6 and exh. 7.

before declining between 2003 and 2004, while the AUV of other factory costs increased between 2001 and 2002, fell from 2002 to 2003, and increased again between 2003 and 2004. The AUV of selling, general, and administrative (“SG&A”) expenses increased during each year between 2001 and 2004. Eramet’s operating income fell between 2001 and 2002 ***. *** increased between 2002 and 2004.

Changes in Eramet’s operating income are further examined by the variance analysis that shows the effects of prices and volume on net sales and of costs and volume on its total costs. This analysis is summarized at the bottom of table VI-2, and shows that the decrease in operating income between 2001 and 2004 was attributable to combined ***. Eramet stated it had experienced ***.⁷

Table VI-2

SD chromium: Variance analysis on the results of operations of Eramet, 2001-04

* * * * * * *

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Eramet’s data on capital expenditures and its research and development (“R&D”) expenses for the production of SD chromium are shown in table VI-3.

Table VI-3

SD chromium: Value of capital expenditures and R&D expenses of Eramet, 2001-04

* * * * * * *

Eramet incurred these expenditures in connection with an investment in a new pilot degassing furnace employing a new patented technology. According to the firm’s questionnaire response and testimony at the staff conference, Eramet planned to continue to develop this technology and to *** based on this technology, *** in use at Marietta, OH.⁸ Eramet estimated that using the *** would result in ***.⁹ Eramet stated that poor financial performance due to the alleged unfairly traded imports has prevented it from implementing these plans.¹⁰

ASSETS AND RETURN ON INVESTMENT

The Commission’s questionnaire requested data on assets used in production, warehousing, and sale of SD chromium to compute return on investment (“ROI”) for 2001 to 2004 (table VI-4). The data for total net sales and *** are from table VI-1. Operating income was divided by total net sales, resulting in the operating income ratio. Total net sales was divided by total assets, resulting in the asset turnover ratio. The operating income ratio was then multiplied by the asset turnover ratio, resulting in ROI. The expanded form of this equation shows how the profit margin and total assets turnover ratio interact to determine the return on investment.

⁷ Eramet’s postconference brief, pp. 43-44 and exh. 5.

⁸ Eramet’s questionnaire response, addendum response to question II-2 and III-13.

⁹ Eramet’s postconference brief, response to staff questions, p. 2.

¹⁰ Conference transcript, p. 29 (Button). Also, *see* Eramet’s postconference brief, p. 22 and pp. 26-27.

Table VI-4

SD chromium: Eramet's value of assets used in production, warehousing, and sale, and its return on investment, 2001-04

* * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of SD chromium from Japan on their firms' return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments. Eramet's responses are:

***.
***.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN JAPAN

The Commission sent foreign producer questionnaires to 10 firms that were identified as possible producers/exporters of SD chromium in Japan by the petition and/or by information provided by Customs.¹ To date one firm (***) stated that it did produce the subject product, one firm (***) reported that it did not produce the subject product, and the remaining firms have not responded.² Table VII-1 shows reported Japanese production capacity, production, shipments, and inventories for 2001-04 and projected 2005-06. The petition identified two high-purity degassed non-electronics grade chromium producers in Japan: JFE³ and Japan Metals and Minerals. Nippon Denko and Nippon Denko Co., Ltd. produce chromium metal but not the subject product. The U.S. Geological Survey reports Japan's production of chromium metal, which includes nonsubject product, as 1,000 metric tons contained chromium per year, each year during 2000-04.

Table VII-1
SD chromium: Japanese production capacity, production, shipments, and inventories, 2001-04 and projected 2005-06

* * * * *

U.S. IMPORTS SUBSEQUENT TO DECEMBER 31, 2004

*** reported having imported or arranged for the importation of SD chromium from Japan for delivery after December 31, 2004.⁴

¹ The petition identified two producers of subject merchandise in Japan, one of which does not export to the United States. The remaining eight were identified using proprietary Customs data.

² *** reported that it produced and shipped to the United States the subject product and *** reported it did not produce the subject product. ***. Staff telephone interview, March 30, 2005.

³ In 2001, NKK Corp. and Kawasaki Steel Corp. agreed to consolidate all of their operations into a new entity called JFE Group. It was renamed JFE Material Co. Ltd. in 2003 (<http://www.jfe-material.co.jp/en/gaiyou/gaiyo.html>). In 2000, the United States Geological Survey published in its *Geological Survey Minerals Yearbook-2000* that JFE reported the development of a new product, 99.5 percent pure chromium metal using vacuum degasification, and that it planned to produce about 1,000 metric tons per year, developing its chromium metal production capacity to 3,000 metric tons per year.

⁴ *** reported for ***.

U.S. IMPORTER'S INVENTORIES

Data collected in this investigation on the reporting U.S. importer's end-of-period inventories of subject SD chromium are presented table VII-2.

Table VII-2

SD chromium: U.S. importer's end-of-period inventories of imports, by source, 2001-04

* * * * *

DUMPING IN THIRD COUNTRY MARKETS

There are no known current or previous antidumping investigations or orders in other countries on SD chromium from Japan.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by April 18, 2005. The Commission's views are due at Commerce within five business days thereafter, or by April 25, 2005.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: Effective Date: March 4, 2005.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202-205-3187 or via e-mail fred.ruggles@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on March 4, 2005, by Eramet Marietta Inc., Marietta, OH and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639, Belpre, OH.

Participation in the investigation and public service list. Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing

the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 25, 2005, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202-205-3187 or via e-mail fred.ruggles@usitc.gov) not later than March 23, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 30, 2005, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1090 (Preliminary)]

Superalloy Degassed Chromium From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731-TA-1090 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from superalloy degassed chromium from Japan, provided for in subheading 8112.21.00 of the

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: March 9, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-4986 Filed 3-11-05; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE**International Trade Administration****[A-588-866]****Initiation of Antidumping Duty
Investigation: Superalloy Degassed
Chromium From Japan**

AGENCY: Import Administration,
International Trade Administration,
Department of Commerce.

DATES: *Effective Dates:* March 30, 2005.

FOR FURTHER INFORMATION CONTACT:
Susan Lehman or Minoo Hatten, Import
Administration, International Trade
Administration, U.S. Department of
Commerce, 14th Street and Constitution
Avenue, NW., Washington, DC 20230;
telephone: (202) 482-0180 or (202) 482-
1690, respectively.

SUPPLEMENTARY INFORMATION:**The Petition**

On March 4, 2005, the Department of Commerce (the Department) received a petition on imports of superalloy degassed chromium from Japan filed in proper form by Eramet Marietta Inc. and Paper, Allied-Industrial, Chemical and Energy Workers International Union (the petitioners). On March 10, 2005, the Department issued a supplemental questionnaire requesting additional information and clarification of certain areas of the petition. The Department also requested additional information in March 16, 2005, and March 17, 2005, telephone calls with counsel to the petitioners. See Memoranda from Meredith Wood through Norbert O.

Gannon to the File dated March 16, 2005, and March 17, 2005. The petitioners filed supplements to the petition on March 7, 2005, March 14, 2005, March 18, 2005, and March 22, 2005.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of superalloy degassed chromium are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring and threaten to injure an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(c) of the Act and the petitioners have demonstrated sufficient industry support with respect to the investigation that the petitioners are requesting the Department to initiate (see "Determination of Industry Support for the Petition" below).

Scope of Investigation

The product covered by this investigation is all forms, sizes, and grades of superalloy degassed chromium from Japan. Superalloy degassed chromium is a high-purity form of chrome metal that generally contains at least 99.5 percent, but less than 99.95 percent, chromium. Superalloy degassed chromium contains very low levels of certain gaseous elements and other impurities (typically no more than 0.005 percent nitrogen, 0.005 percent sulphur, 0.05 percent oxygen, 0.01 percent aluminum, 0.05 percent silicon, and 0.35 percent iron). Superalloy degassed chromium is generally sold in briquetted form, as "pellets" or "compacts," which typically are 1½ inches × 1 inch × 1 inch or smaller in size and have a smooth surface. Superalloy degassed chromium is currently classifiable under subheading 8112.21.00 of the Harmonized Tariff Schedule of the United States (HTSUS). This investigation covers all chromium meeting the above specifications for superalloy degassed chromium regardless of tariff classification.

Certain higher-purity and lower-purity chromium products are excluded from the scope of this investigation. Specifically, the investigation does not cover electronics-grade chromium, which contains a higher percentage of chromium (typically not less than 99.95 percent), a much lower level of iron (less than 0.05 percent), and lower levels of other impurities than superalloy degassed chromium. The investigation also does not cover

"vacuum melt grade" (VMG) chromium, which normally contains at least 99.4 percent chromium and contains a higher level of one or more impurities (nitrogen, sulphur, oxygen, aluminum and/or silicon) than specified above for superalloy degassed chromium.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties, Countervailing Duties, Final Rule*, 62 FR 27296, 27323, May 19, 1997), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC) is responsible for determining whether "the domestic industry" has been injured and must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory

definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. See section 771(10) of the Act. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.¹

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the definition of domestic like product, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information presented by the petitioners, we have determined that there is a single domestic like product, superalloy degassed chromium, which is defined in the "Scope of Investigation" section above, and we have analyzed industry support in terms of the domestic like product.

We received no opposition to this petition. The petitioners account for 100 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Attachment I of the March 24, 2005, Initiation Checklist (Initiation Checklist) on file in the Central Records Unit, Room B-099 of the Department of Commerce.

Period of Investigation

The anticipated period of investigation is January 1, 2004, through December 31, 2004.

U.S. Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the Initiation Checklist.

¹ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988).

Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculation, if appropriate.

The petition identified one producer of superalloy degassed chromium in Japan. See March 4, 2005, petition at page 24. Although the petitioners provide estimates of U.S. price based on U.S. import data (from the U.S. Bureau of the Census) and Japanese export data (see petition at pages 25–28 and Exhibit 7B), we have relied on a price quote provided by the petitioners (see petition at pages 28–29 and Exhibits 7B and 7D(i) and supplement to the petition dated March 14, 2005, at page 5 and Attachment 4). This price quote is for superalloy degassed chromium from Japan sold to a large customer in the United States during 2004. It is for the subject merchandise which is comparable to the merchandise in the home-market price quote provided by the petitioners and in the constructed value (CV) the petitioners calculated (see supplement to the petition dated March 18, 2005, at pages 1–3).

The petitioners deducted an amount for U.S. customs duty and freight and five percent for selling expenses in the United States from the price quote on which we relied. We examined the information provided regarding U.S. price and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

To calculate normal value, the petitioners obtained information regarding the price at which the Japanese producer identified in the petition is believed to have sold superalloy degassed chromium to an end-user in Japan in 2004. The price obtained was inclusive of delivery charges and exclusive of taxes. We reviewed the normal-value information the petitioners provided and have determined that it represents information reasonably available to the petitioners. We have also reviewed it for adequacy and accuracy. See Initiation Checklist.

The petitioners also compared the home-market price to Eramet's cost of production (COP), adjusted for known cost differences between Japan and the United States, to support a sales-below-cost allegation. The Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act states that an allegation of sales below COP need not be specific to individual exporters or producers. See SAA, H.R. Doc. No. 103–316 at 833 (1994). The SAA states that “Commerce

will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation.” *Id.*

Further, the SAA provides that the “new section 773(b)(2)(A) retains the current requirement that Commerce have ‘reasonable grounds to believe or suspect’ that below cost sales have occurred before initiating such an investigation. ‘Reasonable grounds’ * * * exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.” *Id.*

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacture (COM) and selling, general, and administrative (SG&A) expenses (including financial expenses). The petitioners calculated COP based on Eramet's own experience as a U.S. producer during 2004 and its knowledge of the particular production processes used by the Japanese producer, adjusted for known differences between costs incurred to manufacture superalloy degassed chromium in the United States and in Japan. The publicly available data the petitioners used were contemporaneous with the prospective POI. See Initiation Checklist.

Based upon a comparison of the home-market price of the foreign like product to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation.

Pursuant to sections 773(a)(4) and 773(e) of the Act, the petitioners calculated normal value based on CV. Consistent with section 773(e)(2)(B)(iii) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon amounts reported in the 2004 consolidated financial statements of JFE Material Co., Ltd., the potential respondent's parent company.

We reviewed the CV information the petitioners provided and have determined that it represents information reasonably available to the petitioners.

Fair-Value Comparison

Based on a comparison of a U.S. price quote to adjusted CV, the dumping margin is 129.32 percent for superalloy degassed chromium from Japan.

Therefore, based on the data provided by the petitioners, there is reason to believe that imports of superalloy degassed chromium are being, or are likely to be, sold in the United States at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury by reason of the imports of the subject merchandise sold at less than normal value. The petitioners contend that the industry's injured condition is evidenced by reduced market share, lost sales, reduced production, capacity, and capacity utilization rates, decreased U.S. shipments and inventories, decline in prices, lost revenue, reduced employment, decrease in capital expenditures, decreased investment in research and development, and decline in financial performance.

These allegations are supported by relevant evidence including import data, lost sales, and pricing information. We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation and we have determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. See Initiation Checklist.

Initiation of Antidumping Investigation

Based upon the examination of the petition on superalloy degassed chromium from Japan and other information reasonably available to the Department, the Department finds that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of superalloy degassed chromium from Japan are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of Japan. We will attempt to provide a copy of the public version of the petition to the producer named in the petition.

**International Trade Commission
Notification**

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

**Preliminary Determination by the
International Trade Commission**

The ITC will preliminarily determine, no later than April 18, 2005, whether there is a reasonable indication that imports of superalloy degassed chromium are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: March 24, 2005.

Joseph A. Spetrini,

*Acting Assistant Secretary for Import
Administration.*

[FR Doc. E5-1399 Filed 3-29-05; 8:45 am]

BILLING CODE 3510-DS-P

**INTERNATIONAL TRADE
COMMISSION****[Investigation No. 731-TA-1090
(Preliminary)]****Superalloy Degassed Chromium From
Japan****Determination**

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of superalloy degassed chromium, provided for in subheading 8112.21.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

**Commencement of Final Phase
Investigation**

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On March 4, 2005, a petition was filed by Eramet Marietta Inc., Marietta, OH, and the Paper, Allied-Industrial, Chemical and Energy Workers

International Union, Local 5-0639, Belpre, OH, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of superalloy degassed chromium from Japan. Accordingly, effective March 4, 2005, the Commission instituted antidumping duty investigation No. 731-TA-1090 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 14, 2005 (70 FR 12499). The conference was held in Washington, DC, on March 25, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 18, 2005. The views of the Commission are contained in USITC Publication 3768 (April 2005), entitled *Superalloy Degassed Chromium from Japan: Investigation No. 731-TA-1090 (Preliminary)*.

By order of the Commission.

Issued: April 18, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-8016 Filed 4-20-05; 8:45 am]

BILLING CODE 7020-02-P

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

APPENDIX B
CONFERENCE WITNESSES

CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigation:

SUPERALLOY DEGASSED CHROMIUM FROM JAPAN
Investigation No. 731-TA-1090 (Preliminary)
March 25, 2005 - 9:30 am

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING DUTIES:

DLA Piper Rudnick Gray Cary
Washington, DC
on behalf of

Eramet Marietta, Inc.

Stephen L. Houser, Deputy Director of Sales and Marketing for Special Products

John Vorberger, Sales Manager for Special Products

Economic Consulting Services, LLC

Kenneth R. Button, Senior Vice President

James P. Dougan, Senior Economist

William D. Kramer
Clifford E. Stevens, Jr.

)
) OF COUNSEL

NO ENTRY IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING DUTIES

APPENDIX C
SUMMARY DATA

Table C-1
SD chromium: Summary data concerning the U.S. market, 2001-04

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